Message Information

Date 11/29/2010 04:43 PM
From Elizabeth Irvin <Elizabeth.Irvin@sierraclub.org>
To LisaP Jackson/DC/USEPA/US@EPA
cc
Subject Keystone XL correspondence with Secretary Clinton

Message Body

Dear Administrator Jackson:

Attached, please find a copy of a letter sent by the CEOs of 29 environmental groups to Secretary Clinton asking the Department of State to conduct a supplemental Environmental Impact Statement for the Keystone XL tar sands pipeline that includes the additional information requested by the Environmental Protection Agency and the Department of Energy. We appreciate the EPA's engagement and leadership in this process that will have serious implications for our clean energy future.

Sincerely,

Elizabeth Irvin
Apprentice, Sierra Club
(202) 548-4598

Green Group supplemental EIS letter 11.24.10.pdf

OEX Processing Information

Processed Date:
Processed By
PO Office Category:

Message Count

Alliance for Climate Protection • American Rivers • Center for Biological Diversity • Chesapeake Climate Action Center • Clean Water Action • Corporate Ethics International • Earth Day Network • Earthjustice • Earthworks • Environment America • Environmental and Energy Study Institute • Environmental Defense Fund • Forest Ethics • Friends of the Earth • Global Community Monitor • Greenpeace • Indigenous Environmental Network • League of Conservation Voters • National Wildlife Federation • Natural Resources Defense Council • Northern Plains Pipeline Landowners Group • Plains Justice • Public Citizen • Rainforest Action Network • Safe Climate Campaign • Sierra Club • Union of Concerned Scientists • Western Organization of Resource Councils • Wilderness Society

November 24, 2010

The Honorable Hillary Clinton
Secretary
U.S. Department of State
2201 C Street N.W. Washington, DC 20520

Dear Secretary Clinton:

On behalf of our millions of members and supporters, particularly those whose land and livelihood are located along the proposed pipeline right-of-way, we write to you to formally request that the Department of State issue a Supplemental Environmental Impact Statement (SEIS) for the Keystone XL project and provide a sufficient period of time for public review. The public and cooperating agencies deserve the opportunity to review and comment on the myriad impacts of this massive energy infrastructure project that were left unaddressed in the Draft EIS before the Department finalizes the EIS.

The deficiencies in the Draft EIS have been publicly highlighted by the Environmental Protection Agency, the Department of Energy, the Department of Interior, and numerous U.S. Senators and Representatives. Among these were the inadequate assessments of the need for the project, its impact on other energy supply options, the frequency and impact of diluted bitumen pipeline spills, and its route through one of America's most important natural resources, the Ogallala Aquifer. Other inadequacies of the document include a lack of consideration of the project's potential impacts on trans-boundary greenhouse gas emissions, spill response, and air quality in the communities surrounding the refineries that the pipeline would service. Chairman Waxman, Senator Johanns, and the EPA have all explicitly called for a Supplemental EIS to address these issues.

Additionally, technical changes to the details of the project were announced subsequent to the release of the Draft EIS, including the incorporation of the Bakken oil fields "on-ramp" and the withdrawal of the Department of Transportation special permit application.

Moreover, the BP Gulf disaster and numerous pipeline spills over the past six months have dramatically altered the cultural context of this decision and have only increased its controversial nature. Landowners in right-of-way states are justifiably concerned. These technical and contextual changes further necessitate the release of a revised document to be circulated for public comment.

The environmental community echoes the requests of policymakers and concerned stakeholders. We ask the Department of State to display its commitment to transparency and public involvement by issuing a Supplemental EIS.

Sincerely,

Maggie Fox
President and CEO
Alliance for Climate Protection

Rebecca Wodder
President
American Rivers

Kieran Suckling
Executive Director
Center for Biological Diversity

Ted Glick
Policy Director
Chesapeake Climate Action Center

Bob Wendelgass
President
Clean Water Action

Michael Marx
Executive Director
Corporate Ethics International

Kathleen Rogers
President
Earth Day Network

Trip Van Noppen
President
Earthjustice

Jennifer Krill
Executive Director
EARTHWORKS

Margie Alt
Executive Director
Environment America

Carol Werner
Executive Director
Environmental and Energy Study Institute

Fred Krupp
President
Environmental Defense Fund

Todd Paglia
Executive Director
ForestEthics

Eric Pica
President
Friends of the Earth

Denny Larson
Executive Director
Global Community Monitor

Phil Radford
Executive Director
Greenpeace USA

Tom Goldtooth
Executive Director
Indigenous Environmental Network

Gene Karpinski
President
League of Conservation Voters

Larry Schweiger
President and CEO
National Wildlife Federation

Peter Lehner
Executive Director
Natural Resources Defense Council

Darrell Garoutte
Chair
Northern Plains Pipeline Landowners Group

Carrie La Seur
President and Founder
Plains Justice

Tony Clarke
Executive Director
Polaris Institute

Robert Weissman
President
Public Citizen

Rebecca Tarbotton
Executive Director
Rainforest Action Network

Daniel Becker
Director
Safe Climate Campaign

Michael Brune
Executive Director
Sierra Club

Kevin Knobloch
President
Union of Concerned Scientists

Pat Sweeney
Director
Western Organization of Resource Councils

William H. Meadows
President
The Wilderness Society

Cc: Carol Browner, Assistant to the President for Energy and Climate Change
Steven Chu, Secretary, U.S. Department of Energy
Lisa Jackson, Administrator, U.S. Environmental Protection Agency
Nancy Sutley, Chair, White House Council on Environmental Quality
David Goldwyn, International Energy Affairs Coordinator, U.S. Department of State
Daniel Clune, Principle Deputy Assistant Secretary, U.S. Department of State
Alexander Yuan, Project Manager, Keystone XL Pipeline, Department of State

Message Information

Date 07/07/2011 03:04 PM
From "Maggie L. Fox, Repower America" <info@repoweramerica.org>
To LisaP Jackson/DC/USEPA/US@EPA
cc
Subject Are you one of the half million people against mercury pollution?

Message Body

Dear Bonnie,

Last month, we asked for your help protecting our health and our environment from the mercury pollution that comes from burning coal. And over 47,000 of you have answered the call.

With that strong response, you've sent a clear signal to the Environmental Protection Agenc that you support its new rule that would significantly reduce mercury pollution from coal-fire power plants.

Exposure to mercury can cause birth defects, neurological damage and countless other heal and environmental problems. If implemented, these new standards would prevent 17,000 deaths and 12,000 hospital visits each year. That's why it's so important that we make our voices heard and stand up in support of the EPA's efforts.

These same coal-fired power plants that pollute our air with mercury are polluting our atmosphere with millions upon millions of tons of carbon pollution, leading to dangerous changes in our climate.

It's not too late to submit a comment. **Show your support for the proposed rule with ou simple tool here**.

We delivered your comments to the EPA this week. And together with other organizations in the environmental community, over 500,000 responses have been generated in support of the new rule. We've made it clear that we want to take back our air and our health from the big polluters who poison it every day.

The fight isn't over yet -- comments are still being accepted, and the rule won't be finalized until November. You can stay up to date on the latest developments by reading the Repowe Blog **here**.

The time is now to stand up for our health and our shared future. Thank you for your help.

Sincerely,

Maggie L. Fox
President and CEO
Alliance for Climate Protection

OEX Processing Information

Processed Date:	07/08/2011 11:51 AM
Processed By	Cynthia Gaines
PO Office	Category:
OEX	CMS
Message Count	1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 21 2012

OFFICE OF
AIR AND RADIATION

Ms. Maggie L. Fox
President and CEO
The Climate Reality Project
901 E Street, NW, Suite 610
Washington, D.C. 20004

Dear Ms. Fox:

Thank you for your letter dated March 26, 2012, regarding your work on the High-Level Panel on the Clean Development Mechanism (CDM) Policy Dialogue, in which you invite the U.S. Environmental Protection Agency's views on the future of the CDM. Emission markets are an important element in the effort to address climate change, and I am glad that the Climate Reality Project is involved in this important task.

The EPA has extensive experience relevant to ensuring the quality of offsets, such as monitoring and reporting of greenhouse gases, reporting and tracking of allowance trading programs, the development of voluntary offset project protocols, and technical assistance and analysis with industry partners through our many voluntary programs. In particular, we have conducted significant research and amassed substantial practical experience in the design of offset protocols using a standardized approach, which employs performance standards to evaluate project additionality and quantify project baseline emissions or sequestration. You will find a list of some of these products enclosed. I hope that some of this experience may be useful and contribute to your work with the CDM Dialogue.

I understand that there are a number of ways in which you are seeking input as part of this project, including informal consultations, submittal of formal comments, and participation in outreach sessions. My technical staff in this area will follow up with Nigel Purvis and Kevin Curtis to determine the most appropriate way for EPA to contribute.

Again, thank you for your letter and for your invitation to provide input to your work leading stakeholder outreach in North America for the High-Level Panel.

Sincerely,

Gina McCarthy
Assistant Administrator

Enclosure

Attachment 1: Selected EPA Offsets Work Products

Performance standards developed for Climate Leaders
The EPA has developed several Offset Project Methodologies that use a standardized approach to determine project eligibility, address additionality, select and set the baseline, identify monitoring options, and quantify reductions. This approach seeks to ensure that the GHG (geenhouse gas) emission reductions from offset projects meet four key accounting principles—they must be real, additional, permanent, and verifiable.

Project types include: Captured Methane, End Use Commercial Boilers, Industrial Boilers, Landfill Methane, Manure Management: Anaerobic Digester, Reforestation/Afforestation, and Transit Bus Efficiency.
.http://www.epa.gov/climatechange/emissions/index.html#method

Road-Testing of Selected Offset Protocols and Standards; A Comparison of Offset Protocols: Landfills, Manure, and Afforestation/Reforestation
This report examines the EPA Climate Leaders' protocols for landfill methane, manure digesters, and afforestation project types, comparing them with the current versions of protocols developed for four other offset programs: the Clean Development Mechanism (CDM), Regional Greenhouse Gas Initiative (RGGI), California Climate Action Registry (CCAR), and Chicago Climate Exchange (CCX). The EPA/SEI road tested these protocols for two sample projects for each of three project types to reveal differences in amounts of offsets counted under the different protocols.
http://sei-us.org/publications/id/199

Key Issues in Benchmark Baselines for the CDM: Aggregation, Stringency, Cohorts, and Updating
This report examines four issues in setting baselines: aggregation, stringency, data and sample populations, and updating. The report focuses on the power sector as an example and uses detailed (plant level performance) data collected from five case study countries.

http://sei-us.org/Publications_PDF/SEI-EPA-CDMBenchMarkIssues-00.pdf

Evaluation of Benchmarking as an Approach for Establishing Clean Development Mechanism Baselines
This report describes the benchmarking approach to offsets, contrasting it with the project-by-project approach.

http://sei-us.org/Publications_PDF/SEI-EvaluationBenchmarkingCleanDev-99.pdf

The Climate Reality Project

March 26, 2012

Gina McCarthy
Assistant Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 6101A
Washington, DC 20460

Dear Gina:

Earlier this year, I was honored to accept an invitation to participate as a member of the High-Level Panel on the Clean Development Mechanism (CDM) Policy Dialogue. The Panel was created by Christiana Figueres, Executive Secretary of the United Nations Framework Convention on Climate Change (UNFCCC), as well as the CDM Executive Board, in order to advise the international community on how the CDM could best contribute to global climate objectives in the evolving policy debate. I've asked Nigel Purvis, President and CEO of Climate Advisers, to act as my Senior Executive Advisor. Kevin Curtis, Climate Reality Chief Program and Advocacy Officer, and other members of my staff will also contribute their expertise. The work of the Panel will culminate in a report to be presented to the UNFCCC in September.

Now is a crucial time to assess the role that the CDM has played in the last 20 years and the role it might play in the future. The Panel will focus on three areas:

(1) The effectiveness of the CDM to date in meeting its environmental and sustainable development objectives, including successes and shortcomings;

(2) The governance and operations of the CDM, including improvements in efficiency, transparency, and process integrity;

(3) The future direction for the CDM, including recommendations for large-scale conceptual and strategic shifts that would make the CDM a more valuable tool for climate protection and sustainable development.

Each member of the Panel has committed to undertaking this task in an independent, inclusive and transparent manner, initially focusing on gathering stakeholder input. I will lead the stakeholder outreach effort in North America.

901 E Street, NW, Suite 610 | Washington, D.C. 20004 | T: 202-567-6800 | Fax: 202-628-1445
www.climaterealityproject.org

The Climate Reality Project

High-Level Panel on the Clean Development Mechanism (CDM) Policy Dialogue

Luciano Coutinho
President of the Brazilian Development Bank, Brazil

Maggie L. Fox
President and CEO of The Climate Reality Project, United States of America

Ross Garnaut
Distinguished professor of economics at Australian National University, Climate Change Advisor to the Australian Government until June 2011, Australia

Prodipto Ghosh
Distinguished Fellow at The Energy & Resources Institute, Former Secretary to Ministry of Environment and Forests, India

Yolanda Kakabadse
President of the World Wide Fund for Nature, Former Minister of Environment, Ecuador

Joan MacNaughton
President of the Energy Institute, Executive Chair of Energy and Climate Policy Assessment, World Energy Council, Global Advisor Sustainable Policies, Alstom, United Kingdom

Margaret Mukahanana-Sangarwe
Permanent Secretary, Ministry of Tourism and Hospitality Industry of Zimbabwe, Former AWG-LCA chair, Zimbabwe

Paul Simpson
CEO of the Carbon Disclosure Project, United Kingdom

Nobuo Tanaka
The Institute of Energy Economics, Former President of International Energy Agency, Japan

Mohammed Valli Moosa
Chairman of the World Wide Fund for Nature South Africa, Former Environment Minister of South Africa

Changhua Wu
Greater China Director of The Climate Group, China

901 E Street, NW, Suite 610 | Washington, D.C. 20004 | T: 202-567-6800 | Fax: 202-628-1445
www.climaterealityproject.org

The Climate Reality Project

I am writing to solicit your views on the future of the CDM. Because of your commitment to these issues and experience in this arena, I invite you to participate in this process in a variety of ways:

First, please feel free to call Nigel or Kevin directly to discuss these topics at your convenience:

Nigel Purvis
Purvis@climateadvisers.com or (202) 468-6443

Kevin Curtis
Kevin.curtis@climatereality.com or (202) 567-6821

Second, your organization may choose to submit written comments to the full panel. Instructions for doing so are available on the website for the Panel http://www.cdmpolicydialogue.org/contact. We will incorporate your comments in the public record for the CDM Policy Dialogue unless you indicate otherwise.

Third, you may designate an individual from your organization to participate in one or more outreach sessions that we will organize in the coming weeks. Please send any nominations you wish to make and direct any related questions to Shravya Reddy, Climate Reality Climate Solutions Analyst, at shravya.reddy@climatereality.com.

I look forward to hearing and sharing your perspectives on this important topic.

Sincerely,

Maggie L. Fox
President and CEO

Attachment: List of Panel Members for the CDM Policy Dialogue

901 E Street, NW, Suite 610 | Washington, D.C. 20004 | T: 202-567-6800 | Fax: 202-628-1445
www.climaterealityproject.org

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 18 2013

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letters to the U.S. Environmental Protection Agency, dated July 10, 2013 and August 8, 2013, concerning the treatment of biogenic carbon dioxide (CO_2) emissions from stationary sources under the Clean Air Act's (CAA's) permitting programs. The EPA is actively engaged in developing steps needed to address the appropriate treatment of biogenic CO_2 emissions under the CAA's prevention of significant deterioration (PSD) and Title V permitting programs. We recognize the importance of identifying approaches to resolve this issue quickly.

As detailed in the President's Climate Action Plan, part of the strategy to address climate change will include fostering expansion of renewable resources and responsible forest management. A scientifically sound approach to considering biogenic CO_2 emissions in the air permitting programs is a priority for the EPA. While the technical and methodological considerations are complex, the agency is continuing to explore an approach that accounts for the use of different feedstocks based on a variety of factors. The July 12, 2013 United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) decision (*Center for Biological Diversity v. EPA*, No. 11-1101) does not prevent the EPA from pursuing approaches for addressing biogenic CO_2 emissions under the PSD and Title V programs. The EPA was already working towards such approaches in anticipation of the expiration of the deferral.

Consistent with your recommendations, the EPA is engaging with various stakeholders, including other federal agencies, state and local permitting authorities, environmental groups, industry trade groups, and individual permit holders as it considers different approaches for treating biogenic CO_2 emissions that are aligned with the Clean Air Act and principles of sound science. We will consider your recommendations and feedback from other stakeholders in deciding how biogenic CO_2 should be treated under the EPA's air permitting programs.

Again, thank you for your letters. If you have additional questions, please contact me, or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806 or email at haman.patricia@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

United States Senate

WASHINGTON, DC 20510

August 8, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing regarding the recent U.S. Court of Appeals for the D.C. Circuit decision to vacate the Environmental Protection Agency's (EPA) Deferral for CO2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs, known as the Deferral Rule.

This decision by the D.C. Circuit has created significant uncertainty for biomass and forest products facilities that have recently received permits, have applications pending, or are planning to make significant capital investments. The majority opinion, however, confirmed that EPA retains the option of addressing biogenic emissions differently from fossil fuels in the future.

In light of the D.C. Circuit decision and the uncertainty it has caused for the forest products industry, establishing a policy for biogenic carbon emissions in a timely fashion is now more important than ever. We urge you to craft a solution that follows a simple, practical, science-based framework that recognizes the full carbon benefits of biomass and that approaches carbon from a national scale over a long time frame. Given the U.S. Department of Agriculture's expertise in the forest carbon cycle, we also encourage you to work closely with USDA in developing such a framework.

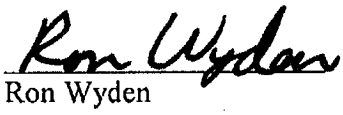
An overly complicated policy could have significant economic effects on existing biomass and forest products facilities, discourage biomass utilization as a renewable energy source, and threaten a stable forest land base.

Biomass is an important renewable resource, and we encourage EPA to move forward quickly to establish a solution that encourages its utilization.

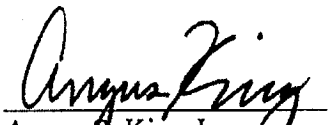
Sincerely,

Jeffrey A. Merkley
United States Senator

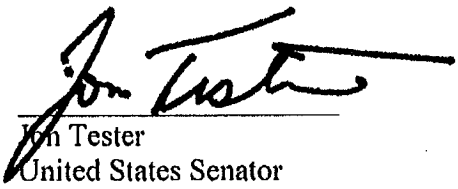
Susan Collins
United States Senator



Ron Wyden
United States Senator

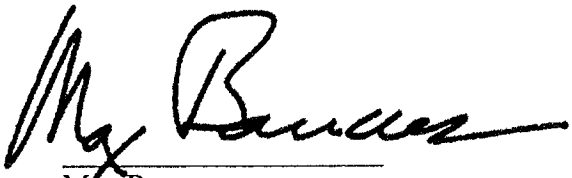


Angus S. King Jr.
United States Senator

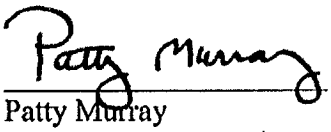


Jon Tester
United States Senator

Debbie Stabenow
United States Senator

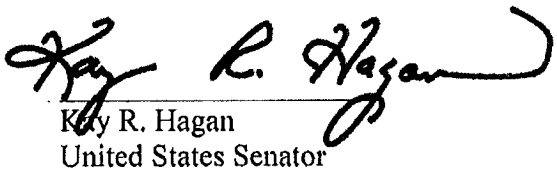


Max Baucus
United States Senator

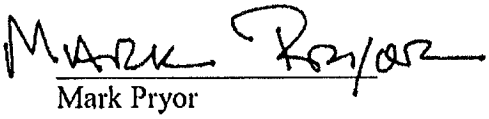


Patty Murray
United States Senator

Al Franken
United States Senator

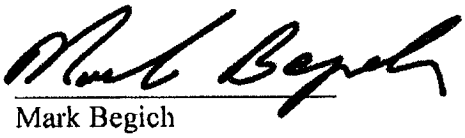


Kay R. Hagan
United States Senator

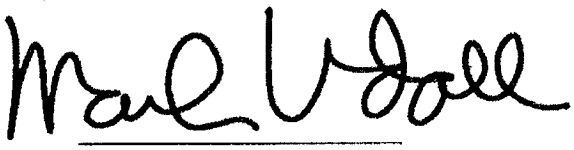


Mark Pryor
United States Senator

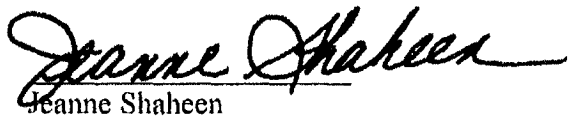
Bill Nelson
United States Senator



Mark Begich
United States Senator



Mark Udall
United States Senator



Jeanne Shaheen
United States Senator

United States Senate

WASHINGTON, DC 20510

July 10, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

As the Environmental Protection Agency (EPA) considers how to address emissions from bioenergy and other biogenic sources, we urge the agency to move forward quickly in proposing a new rule on biogenic carbon dioxide emissions.

EPA's 2011 Deferral for CO_2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs, known as the Deferral Rule, was finalized in 2011 and temporarily suspended the regulation of biogenic CO_2 emissions for three years. This deferral rule will expire on July 20, 2014.

In the interim, EPA has worked to better understand some of the scientific and technical issues on how to properly measure CO_2 emissions from biogenic sources. EPA's Draft Accounting Framework for Biogenic CO_2 and the subsequent Science Advisory Board's recommendations have provided useful insight into the complexities of lifecycle carbon dioxide emissions from biogenic sources. Our understanding is that EPA is now working on a final CO_2 accounting framework.

While we believe this CO_2 accounting framework should be completed, we also believe the EPA should continue this work in tandem with the development of a proposed rulemaking on biogenic carbon dioxide emissions. In our view, EPA should be cognizant that completing the rule before the July 2014 sunset of the Deferral Rule will be necessary to ensure regulatory certainty for facilities using biomass energy, which provides long-term greenhouse gas reduction benefits.

We also urge EPA to consider the following recommendations as the agency drafts a proposed rule for biogenic CO_2 emissions:

- Adopt a simple and practical regulatory framework.

- Approach forest carbon from a national scale and over long time frames to accurately capture the full carbon cycle rather than using small areas and short time frames that can distort carbon impacts.

- Use an inclusive interagency process that actively engages the U.S. Department of Agriculture, which has specific and applicable science and policy expertise.

Pursuing this approach will provide regulatory certainty for businesses that are key to supporting working forests and growing jobs in rural communities, while keeping biomass a financially viable renewable energy option. It also will help provide economic benefits to forest owners that enable them to keep their working forests intact rather than converting them to other land uses.

The President's Climate Action Plan emphasizes both the importance of preserving forests and the critical role of renewable energy in reducing carbon emissions, noting that the Administration has promoted worldwide the need for regulatory support for renewable energy projects. We believe EPA is facing just such an opportunity.

We hope EPA will quickly develop a proposed rule aimed at capturing the full carbon benefits of biomass, working forests, and forest products and at promoting jobs in rural America. We stand ready to work with you.

Sincerely,

Jeffrey A. Merkley
United States Senator

Max Baucus
United States Senator

Ron Wyden
United States Senator

Debbie Stabenow
United States Senator

Mark Pryor
United States Senator

Amy Klobuchar
United States Senator

Mark Begich
United States Senator

Jeanne Shaheen
United States Senator

Kay Hagan
United States Senator

Patty Murray
United States Senator

Angus King
United States Senator

Jon Tester
United States Senator

Mark Udall
United States Senator

cc:
Secretary Tom Vilsack, U.S. Department of Agriculture

Congress of the United States
Washington, DC 20515

June 17, 2013

The Honorable Bob Perciasepe
Acting Administrator, U.S. Environmental Protection Agency
U.S. EPA Headquarters
1200 Pennsylvania Avenue NW, Mail Code 1101A
Washington, D.C. 20460

Dear Mr. Perciasepe,

We are writing to ask for your consideration of the attached letter from the Colorado Clean Water Coalition before issuing the proposed rule for comment on the upcoming renewal of the General Stormwater Permit.

The Colorado Clean Water Coalition (CCWC) represents over 3 million Coloradans who are dedicated to protecting Colorado's water resources through regionally appropriate stormwater regulations and programs. In numerous meetings, they have expressed to our offices their concerns with the upcoming General Stormwater Permit renewal. Those concerns are outlined in the attached letter, and we ask that you review them and take them into consideration as you write the proposed rule for comment.

Please do not hesitate to contact us should you have any questions.

Sincerely,

Mark Udall
United States Senator

Michael F. Bennet
United States Senator

Diana DeGette
U.S. Representative

Ed Perlmutter
U.S. Representative

Jared Polis
U.S. Representative

COLORADO
CLEAN WATER COALITION

May 29, 2013

The Honorable Bob Perciasepe
Acting Administrator, U.S. Environmental Protection Agency
U.S. EPA Headquarters
1200 Pennsylvania Avenue NW, Mail Code 1101A
Washington, D.C. 20460

Dear Mr. Perciasepe,

On behalf of the Colorado Clean Water Coalition (CCWC), which represents over 3 million Colorado residents, members of the business community, and local governments, I am writing to share with you a number of issues we have regarding the upcoming renewal of the EPA's General Stormwater Permit.

The CCWC's diverse group of stakeholders is dedicated to protecting Colorado's water resources through the implementation of thoroughly vetted, flexible, cost effective, and regionally appropriate stormwater regulations and programs. The CCWC has been an active participant in the rule-making process, and we ask that you consider addressing our recommendations, which I have outlined below, prior to issuing the proposed rule for comment.

1. Colorado is and has always been on the forefront in balancing our unique competing interests in the state with regard to environmental regulations. Members of the CCWC have developed robust geographically specific stormwater programs that have proven to be successful for the specific water quality concerns they were designed to address. This illustrates the importance of not creating a one-size-fits-all rule that ignores the complexity and variation in geography across the United States. Therefore, the **CCWC strongly supports the EPA's suggestion to include an exemption from the new Stormwater Rule for successful existing programs.** Any such exemption process needs to be developed in a manner that accounts for resources available to state and local entities responsible for administering such process. This process should be simple and timely.

2. The CCWC supports the EPA's goal of making stormwater protection as cost-effective as possible. To that extent, the **CCWC believes that working with stakeholders at the local level to identify specific water quality concerns, if any, and developing cost-effective and regionally appropriate solutions to those programs is the only way to truly ensure that future rules and regulations are truly the best, and most cost efficient, solutions available.**

3. **The CCWC believes that any new Stormwater Rule should continue to be based on the "maximum extent practicable" (MEP) concept.** MEP allows significant differences in geography, geology, climate, laws and other important factors to be considered when developing local stormwater programs.

4. **The CCWC supports the EPA's decision to exclude a retrofit component in the new rules.**

5. **The CCWC agrees with the EPA that pavement management projects, including repair or replacement of existing roadways and associated infrastructure that "do not change the footprint" of the existing**

site do not fall under the category of new development or redevelopment and therefore are not subject to the post construction requirements.

Thank you for your time and attention to this matter. If you have any questions, please feel free to contact the CCWC's Erik Nelson at (303) 660-7365.

Sincerely,

Jack Hilbert
Chairman

On behalf of the members of the Colorado Clean Water Coalition:

Debbie Brinkman
Mayor, City of Littleton

Donald A. Clem
Executive Director, Portland Cement Association – Rocky Mountain Region

Jerry DiTullio
Mayor, City of Wheat Ridge

Mark G. Deven
City Manager, City of Arvada

Paul Donahue
Mayor, Town of Castle Rock

Jack Ethredge
City Manager, City of Thornton

Sean Ford
Mayor, City of Commerce City

Frank Gray
Chairman, Douglas County Business Alliance

James D. Gunning
Mayor, City of Lone Tree

Eva J. Henry
Chair, Adams County Board of County Commissioners

Wes LaVanchy
Town Manager, Town of Firestone

Tony Milo
Executive Director, Colorado Contractors Association

Bob Murphy
Mayor, City of Lakewood

Ronald J. Rakowsky
Mayor, Greenwood Village

Jill E. Repella
Chair, Douglas County Board of County Commissioners

Donald Rosier
Chairman, Jefferson County Board of County Commissioners

Nancy N. Sharpe
Chair, Arapahoe County Board of County Commissioners

Mike Waid
Mayor, Town of Parker

Weld County Board of County Commissioners

Michael Hancock
Mayor, City of Denver

Steve Hogan
Mayor, City of Aurora

Rick Owens
Chairman, Board of Directors
Highlands Ranch Metropolitan Districts

Bart Miller
Chair, Board of Directors
Southeast Metro Stormwater Authority

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 23 2013

OFFICE OF WATER

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of June 17, 2013, that included suggestions from the Colorado Clean Water Coalition regarding changes the agency is considering to the stormwater program in order to address the adverse impacts that urban stormwater discharges have on water bodies.

The agency shares your goal of supporting cost-effective solutions to stormwater challenges, and recognizing those states or localities that are already addressing this important source of water pollution. A more proactive approach using national stormwater retention standards, one of the program changes we are considering, would help cities save money in the long run. It is cost-effective to install stormwater controls up front as sites are being developed rather than afterwards. Proactive stormwater retention will prevent new water quality impacts and will reduce the need for cities to spend their limited resources on costly retrofits and stream restoration projects to restore impaired waters. The agency is conducting a detailed analysis of the costs, impacts, and benefits of establishing national stormwater retention standards and this information will be publically available at the time of the proposed rulemaking for review and comment.

As your letter notes, consideration of regionally appropriate solutions will be important to ensuring such cost-effective stormwater solutions. Many cities and counties have already developed effective stormwater programs, which is why we are considering provisions to allow local programs to vary from the national standard as long as an equivalent amount of protection is provided. We understand that local governments need flexibility to address their water quality needs in the most cost-effective manner. We are also considering a number of other flexibilities, including watershed-based programs with voluntary components and alternative ways for site owners to comply if they cannot meet the stormwater retention standard due to factors such as site constraints or water rights laws.

In considering these changes to our stormwater program, we have solicited useful input from many stakeholders, including local officials from Colorado. We are carefully considering all of the suggestions we have received and are looking forward to working with a broad range of interested parties to make stormwater program changes that will provide better protection of the nation's water bodies while balancing the need for flexibility at the local level.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

March 5, 2013

Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning permitting for the discharge of water used in hydraulic fracturing. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

(b) (6)

Please also send a copy of your letter to my office at:

Sen. Mark Udall
SH-328
Washington, DC 20510
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

U.S. Senator Mark Udall

FEB 11 2013

Denver

(b) (6)

Colorado Senator
999 18th Street,
Suite 1525, North Tower
Denver, CO 80202

Dear Senator Udall,

I recently sent a similar letter to EPA Administrator and the EPA Regional Director, Lisa Jackson and Jim Martin. I am writing in hopes that you may address some of my concerns regarding the permitting and regulatory process involved with hydraulic fracking. I know that the EPA is in a precarious position as it struggles to balance the needs of struggling state economies with their mission to protect human health and the environment, but ultimately the EPA is not tasked with propping up economies. It is the EPA's job to make sure that all industries and economies are operating without detriment to human or environmental health.

Some of my concerns are in regard to the NPDES permits for surface water. I grew up on the East coast living in Pennsylvania, Maryland, and Massachusetts, and it is my understanding that oil and gas facilities are not allowed to discharge produced water to the surface. But I am currently a resident and concerned citizen living in Colorado. I've worked in Wyoming and currently in Montana on Indian reservations; I recently became aware to the fact that fracking discharges are allowed for discharge in western states.

This was brought to my attention a couple months ago through a NPR story that claimed well wastewater is discharged to feed the local livestock on the Wind River Reservation. Livestock contamination is almost scarier than water contamination because the livestock is not a food source for only the reservation; the livestock is integrated into our food supply and potentially distributed outside of Wyoming.

I was finally motivated to write when I saw that the BLM is now analyzing a 9,000 well natural gas drilling project near Wamsutter, WY. If oil and gas exploration is going to continue to grow, I want assurances that it is growing in a manner that's not negatively affecting human health.

- What is the EPA doing to ensure that the chemicals involved with fracking are not entering the water and food supply? Specifically, what is the EPA doing in Western states where the regulations seem to be more lax than on the East.
- What chemicals and in what concentrations are they being discharged from oil and gas permits? What is the effect of these chemicals on our aquatic ecosystems and human health?
- What is the frequency that discharge of flowback from fracking will enter an intake for a public drinking water? How are other western states managing for the potential that flowback may enter public drinking water intakes?

Most importantly, how do NPDES permits regulate potential toxins discharged to the surface? I would assume these permits are issued with full understanding of all the pollutants and toxins that may be associated with the discharge, but the NPR story seems to indicate that permits are being issued without a full grasp on this issue. It seems like the fundamental methods of drilling have changed since the original NPDES permits were first issued. Is there targeted monitoring to measure impacts to water quality in our rivers directly after fracking events?

I hope that you can convince me that you have a handle on water quality and the externalities associated with fracking. I will also be sending similar letters to both of my senators in Colorado and Wyoming.

Sincerely,

(b) (6)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 29 2013

OFFICE OF WATER

The Honorable Mark Udall
United States Senate
Washington, D. C. 20510

Dear Senator Udall:

Thank you for your letter of March 5, 2013, forwarding correspondence from your constituent, (b) (6) concerning permitting for the discharge of water used in hydraulic fracturing. Enclosed for your information is a copy of my response to (b) (6)

If you have any further questions, please contact me or your staff may call Pamela Janifer in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-6969.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 17 2013

(b) (6)

OFFICE OF WATER

Thank you for your February 11, 2013, letter to the U.S. Environmental Protection Agency (EPA) expressing your concerns regarding permitting and regulatory requirements for wastewater generated from hydraulic fracturing, and the potential impacts to human health and the environment.

Concern about potential environmental risk associated with new drilling techniques and hydraulic fracturing has understandably grown as the level of activity has significantly increased over the past decade. Concurrently, the EPA has worked to improve our understanding of potential environmental impacts that could be associated with the practice of hydraulic fracturing and ways in which current regulations can best be implemented to protect human health and the environment. In that regard, the EPA's Office of Wastewater Management has provided information to the EPA Regions and to state permitting authorities to assist them in understanding potential issues related to wastewater discharge permitting under the Clean Water Act. For more information on that effort see:
http://www.epa.gov/npdes/pubs/hydrofracturing_faq_memo.pdf

The EPA also understands the concern regarding the potential impacts of chemicals used in hydraulic fracturing as well as risks to surface and groundwater drinking water sources. In an effort to get a better understanding of the impacts of those issues, the EPA began a multi-year study of the potential impacts of hydraulic fracturing on drinking water sources. A current progress report on the study includes a list of chemicals that have been reportedly used in hydraulic fracturing fluids or detected in hydraulic fracturing wastewater. The EPA has limited information on the concentrations of chemicals being used in hydraulic fracturing and is currently reviewing this data. For more information on the study and progress made to date, please see: http://www.epa.gov/hfstudy/pdfs/hf-report20121214.pdf. In addition to evaluating the potential impacts of hydraulic fracturing on drinking water resources, the Agency has identified research areas related to hydraulic fracturing operations that are not within the scope of the current study. These areas include potential impacts on air quality and ecosystems as well as seismic and occupational risks. The EPA is compiling available information on the chemical, physical and toxicological properties of hydraulic fracturing-related chemicals (i.e., those found in injected fluids and/or wastewater).

The Department of Interior's Bureau of Land Management (BLM), has proposed a regulation entitled: "*Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands.*" The EPA believes BLM's proposed regulatory changes will implement measures that will assure that oil and natural gas production can proceed in a safe and responsible manner while maintaining the integrity of the environment on Federal and Indian lands. Understanding and preventing potential environmental impacts is a high priority for our agency, particularly in view of the fact that the EPA is responsible for overseeing state programs and in some cases directly carrying out regulatory programs under federal statutes such as the Safe Drinking Water Act (SDWA) and the CWA. Please understand that BLM's approval of oil and gas production wells is not under the EPA's purview. The proposed regulation can be found at: https://www.federalregister.gov/articles/2012/05/11/2012-11304/oil-and-gas-well-stimulation-including-hydraulic-fracturing-on-federal-and-indian-lands#h-8

The Oil and Gas Extraction Point Source Effluent Guidelines and Standards, issued in 1979, include an Agricultural and Wildlife Water Use beneficial subcategory, which is in part based on the long term western practice of using good quality produced water for agriculture or wildlife propagation when discharged into navigable waters. We are committed to coordinating closely with the Tribes to ensure effluent guidelines are incorporated into National Pollutant Discharge Elimination System (NPDES) permits that are technically sound and include conditions necessary to protect surface water usage, including: wildlife; livestock; and other agriculture uses.

Under the SDWA, public drinking water systems on Indian reservations must meet federal drinking water standards. Routine monitoring of the drinking water systems are conducted to monitor compliance with the standards. The SDWA also protects the quality of underground sources of drinking water through the Underground Injection Control Program and the Source Water Assessment Program. Both programs seek to minimize the opportunity for pollutants to enter waters that are currently used, or may be used in the future, for drinking water. Additionally, through the NPDES permitting program we protect drinking water sources by ensuring that limits and conditions in permits ensure that the receiving water uses, such as drinking water supply, are met.

In short, the EPA is working to ensure that regulatory requirements are being implemented through appropriate authority to prevent potential impacts from hydraulic fracturing operations. Again, I thank you for interest in protecting human health and the environment.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

February 8, 2013

Environmental Protection Agency
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Ave NW Room 3426 Arn
Washington, DC 20460-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning the impacts of pesticides on the environment, and pollinators in particular. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

(b) (6)

Please also send a copy of your letter to my office at:

Sen. Mark Udall
SH-328
Washington, DC 20510
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

U.S. Senator Mark Udall

DEC 05 2012

Denver

The Honorable Mark Udall
999 18th Street
Suite 1525 North Tower
Denver, Colorado 80202

December 2, 2012

Re: Management in the EPA Pesticide Registration Division: corrupt or incompetent

My Dear Senator Udall:

I am writing to you because of your concern about the misuse of pesticides contributing to the decline of pollinators in our country. The beekeeping industry regards the neonicotinoid pesticides, in particular clothianidin and imidacloprid, as highly suspect in the world-wide decline of pollinators; the majority of crop pollinators are honeybees. The US Environmental Protection Agency (EPA) having granted a conditional registration without field tests of clothianidin is an example of poor policy, poor science, and poor management – all in a government agency that requires public confidence to be effective. The history of clothianidin reveals stunning incompetence on the part of EPA: there is a serious problem with management in the Pesticide Registration Division that suggests corruption.

These are three of the major problems:

Poor Policy: Conditional registrations allowed under FIFRA Sec 7B are vehicles for misuse, as in the case of clothianidin, and are in the interest of neither the public nor the environment. They serve the interest of the pesticide industry only. Conditional registrations account for 2/3 of all current pesticide registrations! They set the stage for uncontrolled widespread harm to human health and the environment. In 2003, scientists at EPA wanted valid studies before allowing clothianidin use, nevertheless, the Pesticide Registration Division ignored science and issued a conditional registration to the manufacturer Bayer without studies.

Poor Science: Clothianidin was in use for six years before Bayer submitted the required study for conditional registration, Field Test for Pollinators. This study placed four honeybee colonies in the midst of 2 ½ acres of canola grown from clothianidin-treated seed and surrounded by thousands of acres of crops from untreated seed. This is as absurd as it sounds. Bees forage the most desirable plants up to a radius of two to three miles. That EPA accepted this study as scientifically valid demonstrates there is a problem within the Registration Division.

Poor Management: The study was later deemed deficient. After nine years, Bayer has yet to submit an acceptable field test and has failed to comply with all deadlines set by EPA. EPA now schedules a review of the safety of neonicotinoids for 2018! EPA claims it has insufficient data to act ignoring the fact that imidacloprid was banned in France in 1999 followed by a ban of clothianidin in Germany a few years later. This is a partial list of bans and countries instituting bans. Clothianidin was applied to more than 200 million acres of commodity crops last year in the U.S. There is no information on the amount applied in urban areas and there is very little publically available human health information. You can find the active ingredients clothianidin and imidacloprid on the active ingredient statements on labels of Bayer pesticides in nearly every hardware store.

Will we have an unregistered pesticide, already demonstrated to harm the environment and for which little information on public is available, on the market for 15 years and will this kind of incompetence or outright corruption continue to be tolerated in an agency as important as EPA? This is has gone beyond being a problem and is fast becoming a world-wide environmental menace. Further, this constitutes a serious threat to our agriculture and the economy which the EPA refuses to deal with.

For further information, I suggest consulting the Center for Food Safety, Pesticide Action Network of North America, Beyond Pesticides, and Tom's Corner at www.bouldercountybeekeepers.org.

Sincerely yours,

(b) (6)

[redacted]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 2 2013

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your February 8, 2013, letter to the U.S. Environmental Protection Agency on behalf of your constituent, (b) (6) , regarding media reports about pesticides and bees. I responded to (b) directly and I have enclosed a copy of that reply for your records.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

James J. Jones
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 2 2013

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

(b) (6)

Dear (b) (6)

Thank you for your letter of December 5, 2012, to Senator Mark Udall regarding conditional registration of pesticides such as the neonicotinoid clothianidin and possible consequences for protection of pollinators. Senator Udall recently forwarded your letter to me for response on behalf of the EPA because my office is responsible for regulating pesticides. I appreciate the opportunity to respond to your concerns.

First, I want to assure you that the EPA is working aggressively to protect bees and other pollinators from the potential effects of pesticides and is engaged in national and international efforts to address those concerns. We are working collaboratively with beekeepers, growers, pesticide manufacturers, USDA, and states to apply technologies to reduce dust drift of pesticides, advance best management practices, improve enforcement guidance, and explore opportunities for enhancing pesticide labeling.

Consistent with federal pesticide laws, the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, the EPA registers pesticides only upon completion of a rigorous evaluation of required scientific information to ensure the product is safe for use. Because of EPA's regulatory authority, a pesticide never enters the marketplace without testing to ensure safety for both human health and the environment. After determining that a pesticide's use is safe, the EPA allows expanded uses through the conditional registration authority only if there are sufficient data to ensure that human health and the environment are protected.

In general, the EPA uses the conditional registration authority to approve new pesticides sparingly. Of the thousands of registration decisions made each year, only about two to three dozen are for new active ingredients. Some of these products are approved on a conditional basis once they are found to be safe and the use of the pesticide is in the public interest. Such pesticides are subject to conditional registration to provide additional information to address the EPA's evolving scientific requirements.

Although the registrant of clothianidin satisfied the basic study requirements for pesticide registration in 2003, the EPA required an additional field study to address uncertainties about potential long-term effects of clothianidin on honey bees. In 2007, we reviewed this study and determined that it satisfied the agency's field study guidelines. However, the agency's assessment of the usefulness of this study has changed since the initial 2007 review, which is not unusual in the scientific field. The reevaluation of the study in question does not change the agency's conclusion to date that the registered uses of clothianidin meet the FIFRA risk/benefit standard for registration.

All of the neonicotinoid pesticides are currently under review. In fact, the agency has accelerated the scheduling of the neonicotinoid pesticides in our registration review process because of uncertainties about these pesticides and their potential effects on bees. We are coordinating our efforts with the California Department of Pesticide Regulation and Health Canada's Pest Management Regulatory Authority. We believe that by following the EPA's ongoing commitment to transparency and public participation and relying on the best science available, our established registration review process will yield well-reasoned regulatory decisions. For further information, please see our Clothianidin Registration Status Web page.[1]

The scientific issues are complex, and we are working closely with our global partners to better understand the evolving science for assessing the potential effects of pesticides, including neonicotinoids, on honey bees. In concert with national and international scientific bodies, we have finalized a new pesticide risk assessment process for pollinators.[2] The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel on September 11-14, 2012[3] provided the EPA with external scientific peer review of our proposed pollinator risk assessment framework, and we have already incorporated the SAP recommendations into our ongoing registration review for the neonicotinoid pesticides. Six new pollinator studies are currently underway.

We believe that staying abreast of evolving science,[4] communicating with our regulatory partners here and abroad, and working with research scientists and practitioners in laboratories and in the field put the agency in the best position to account for potential effects of neonicotinoid pesticides on honey bees in our regulatory decisions. The registration review process allows the EPA to act quickly if the data and associated scientific evaluations warrant such action. If the risk posed by a pesticide, supported by the best available, peer-reviewed science, cannot be mitigated or managed through other measures, and the agency determines that the pesticide no longer meets the FIFRA standard for registration, then the agency will move quickly to take appropriate regulatory action.

Again, thank you for taking the time to write on this important matter. If you have any further questions or concerns, please contact Ms. Lois Rossi, Director, Registration Division at rossi.lois@epa.gov or (703) 305-5447.

Sincerely,

James J. Jones
Acting Assistant Administrator

[1] http://www.epa.gov/pesticides/about/intheworks/clothianidin-registration-status.html
[2] http://www.regulations.gov/#%21documentDetail;D=EPA-HQ-OPP-2012-0543-0004
[3] http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=N%252BSR;D=EPA-HQ-OPP-2012-0543
[4] http://www.ars.usda.gov/News/docs.htm?docid=15572#research

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

July 31, 2012

Environmental Protection Agency
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Ave NW Room 3426 Arn
Washington, DC 20460-0001

Dear Congressional Liaison,

Enclosed please find a letter from my constituent concerning regulations for new furnaces. I would appreciate it if you would respond to the constituent's concerns in an expeditious manner and in accordance with all applicable laws and regulations.

Please direct any correspondence concerning this inquiry to the constituent at:

(b) (6)

Please also send a copy of your letter to my office at:

Sen. Mark Udall
SH-328
Washington, DC 20510
Attention: Dan Fenn

Thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

Senator Udall Thank you for your e-mail on the budget dated the 17th of July 2012. Although your may have attempted to pass a budget the fact is that the Senate has not passed one and we are operating on stop gap measures to keep going. THIS IS UN ACCEPTABLE. Next I do have a concern about out "great EPA" now demanding that we in colorado and other cold areas replace our furnaces with a 90% effecient furnace in the future. This will require that we have a 3" SVC pipe to the outside of the home for fresh air. In light of the receint fires I now believe that this rquirement would be detrmental to my healt due to the fact that I have COPD with all the smoke from the fires would be drawn into my home. I relied on my AC and closed windows during this high polution time and would not have been able to do that with the outside air being drawn into my home and filling it with the smoke. Its time to rain in the Government agentices and stop demanding that we do things because some A&^W*&%$ or group iof them think it would be a good thing. In plain words get the Government to stay out of our homes and lives except to protect our boarders and improve our infrastructur and remember that the Constitution rules not the judges and courts its the people!!!

Please close AL-12-001-3166 without a response

Josh Lewis to: Cassaundra Eades, Kathy Mims 08/21/2012 11:01 AM
Cc: Sabrina Hamilton, Gloria Hammond

From: Josh Lewis/DC/USEPA/US
To: Cassaundra Eades/DC/USEPA/US@EPA, Kathy Mims/DC/USEPA/US@EPA
Cc: Sabrina Hamilton/DC/USEPA/US@EPA, Gloria Hammond/DC/USEPA/US@EPA

The issue raised in the letter belongs to DOE, so they will be responding. If you need to put a record in CMS, you can use the email below that I just sent to Sen Udall's staffer letting him know to expect a response from DOE. Thanks.

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550
----- Forwarded by Josh Lewis/DC/USEPA/US on 08/21/2012 10:55 AM -----

From: Josh Lewis/DC/USEPA/US
To: dan_fenn@markudall.senate.gov
Cc: "Tong, Clarence" <Clarence.Tong@Hq.Doe.Gov>
Date: 08/21/2012 10:55 AM
Subject: Recent letter to EPA from your constituent, (b) (6) r

Hi Dan,

In reviewing the attached letter we received from your office, we've determined that the issue raised actually falls under a DOE program. DOE has the letter and will be responding to it. I'm cc'ing Clarence at DOE in case you have any questions. Thanks.

Josh Lewis
USEPA/Office of Congressional and Intergovernmental Relations
phone: 202-564-2095
fax: 202-501-1550
- ~1768956.pdf

R8-12-600-7452

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8P-W

May 1, 2012

Ms. Gloria Gutierrez
Southern Colorado Regional Director for
United States Senator Mark Udall
107 West B Street
Pueblo, Colorado 81003

Dear Ms. Gutierrez:

Thank you for faxing Senator Udall's March 28, 2012, letter on behalf of (b) (6) of Walsenburg, Colorado, who is concerned about coalbed methane (CBM) gas production wastewater impacting his cropland. I apologize for the delay in our response. We now have the information that members of our EPA Region 8 Water Program staff were collecting from the other government agencies involved in this matter. I appreciate this opportunity to provide the following information related to (b) (6) concerns.

It appears the amendments and compensation (b) (6) refers to in his message to Senator Udall relate to an agreement between the Colorado Oil and Gas Conservation Commission (COGCC) and Petroglyph Operating Company. In this agreement, which is documented in COGCC Form 27 *Site Investigation and Remediation Workplan* dated November 30, 2009, Petroglyph voluntarily agreed to conduct soil remediation activities at the (b) (6) Information about the sodic soil concerns and subsequent remediation activities can be found at the COGCC website under "Images" (third from the bottom in the list on the left side of the COGCC home page); for "Type" select "Projects" from the list; for "Unique Identifier" enter "4625." For further information on the agreement, a contact at COGCC would be Mr. Thom Kerr at 303-894-2100.

As you may know, from 1999 to July 2007, under authorization by the COGCC, Petroglyph operated a CBM gas extraction field near (b) (6) property outside of Walsenburg in Huerfano County. COGCC also is the lead regulatory agency for methane remediation efforts in the area and has authority to require Petroglyph to conduct further remediation if conditions change related to methane in ground water at the site. The EPA's involvement in this issue has been to issue the Underground Injection Control (UIC) Class V injection permit for the necessary injection activity related to the COGCC's Remediation Workplan requirements. Our UIC permit was issued on May 26, 2010.

The Colorado Department of Public Health and the Environment (CDPHE) had issued Petroglyph a permit to discharge the company's produced water to the Cucharas River. However, CBM production was shut down in 2007 after the discovery of methane in ground water. When the CBM production wells were shut down, discharge to the Cucharas River ceased. CDPHE issued a new permit to Petroglyph in December of 2009 for surface discharge of CBM produced water, but that permit was terminated at the

end of 2011. More information on the discharge permits can be provided by the Water Quality Control Division of CDPHE at 303-692-3517.

While the EPA's authorities and resources to directly address Mr. Corsentino's concerns are limited, over the past several years, staff of our EPA Region 8 Water Program have spoken with (b) (6) about his concerns and provided assistance and information to him about other government sources of possible assistance, such as Colorado State University's agricultural extension service, National Resource Conservation Service and others that would have information on how to remediate soils for his crops.

Again, thank you for contacting the EPA, and I hope this information will be useful for your response to (b) (6). If you have further questions, please contact me at (303) 312-6604 or fells.sandy@epa.gov.

Sincerely,

Sandy Fells
Regional Congressional Liaison

United States Senate

WASHINGTON, DC 20510

February 17, 2012

The Honorable Ray LaHood
Secretary
Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary LaHood and Administrator Jackson:

We are writing to express our support for your efforts to establish a coordinated national program for fuel economy and emissions standards for model year 2017 to 2025 cars, light trucks, and SUVs. The proposed regulations will increase nationwide fleetwide fuel economy to 54.5 miles per gallon by 2025. The standards will implement Federal law in a manner that provides industry with certainty, saves consumers billions of dollars at the pump, reduces our dependence on oil, and improves the health of American communities.

These proposed regulations implement the policies set forth in the 2007 Ten in Ten Fuel Economy Act (Title I of Public Law 110-140) in a manner supported by many automotive manufacturers, as well as the labor and environmental community. Industry groups such as the National Association of Manufacturers praised the agreement on the proposed standards as a "positive step." The regulatory certainty created by this proposal, which unifies state and Federal regulations into a single regime, will help automakers to design and build advanced technology vehicles and compete in an increasingly global marketplace. In addition, the "mid-term" review for the model year 2022-2025 standards will require your agencies to evaluate whether the stringency required in the second phase of the program is still appropriate or whether the standards should be revised upwards or downwards.

The proposed standards have broad industry support, but they will also reduce petroleum use and pollution on an aggressive schedule, as Congress required in the 2007 statute. As the latest Energy Information Administration's Annual Energy Outlook has concluded, increases in fuel economy have contributed to our declining dependence on oil imports.

Further progress will be made with the implementation of the proposed standards, which taken together with the recently adopted standards for model years 2012 to 2016, will remove the need for as much as 3.8 million barrels of petroleum per day by 2030. Consumers will save thousands of dollars at the pump over the lifetime of their vehicles, and both our economy and our security will be less dependent on imported oil.

We appreciate your efforts to achieve your statutory mandates of reducing oil use and pollution in a manner that will allow the automobile industry to grow and thrive. We encourage you to continue working with stakeholders to attain the critical national objectives of reduced pollution, improved energy security, and lower consumer gasoline costs while reducing compliance costs.

Sincerely,

Dianne Feinstein
United States Senator

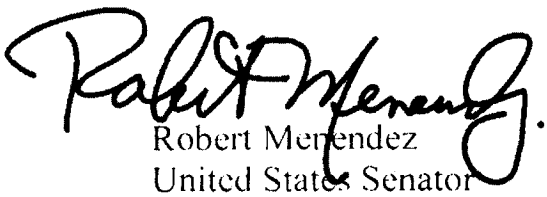
Olympia J. Snowe
United States Senator

Carl Levin
United States Senator

Frank R. Lautenberg
United States Senator

John D. Rockefeller IV
United States Senator

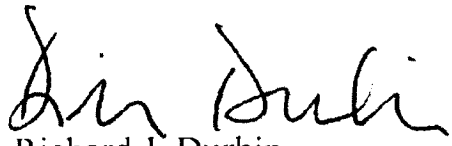
Debbie Stabenow
United States Senator



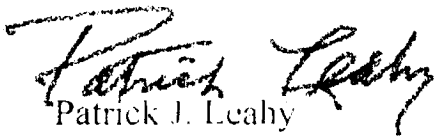
Robert Menendez
United States Senator

Tom Harkin
United States Senator

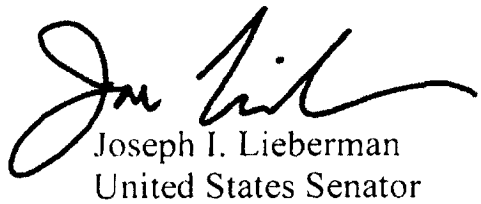
Christopher A. Coons
United States Senator



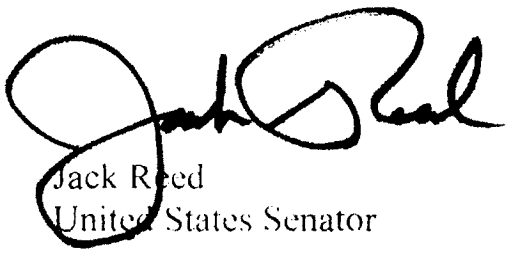
Richard J. Durbin
United States Senator



Patrick J. Leahy
United States Senator



Joseph I. Lieberman
United States Senator



Jack Reed
United States Senator

Sheldon Whitehouse
United States Senator

Bill Nelson
United States Senator

Michael F. Bennet
United States Senator

Barbara Boxer
United States Senator

Tom Udall
United States Senator

Daniel K. Inouye
United States Senator

Richard Blumenthal
United States Senator

Ron Wyden
United States Senator

Al Franken
United States Senator

Patty Murray
United States Senator

John F. Kerry
United States Senator

Mark Udall
United States Senator

Jeff Merkley
United States Senator

Mark Begich
United States Senator

Sherrod Brown
United States Senator

Amy Klobuchar
United States Senator

Jon Tester
United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 8 2012

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of February 17, 2012, co-signed by 29 of your colleagues, regarding the U.S. Environmental Protection Agency and National Highway Traffic and Safety Administration (NHTSA) joint proposed rule for fuel economy and greenhouse gas (GHG) emissions standards for model year (MY) 2017 to 2025 passenger cars and light trucks. We appreciate your support and value your interest in these standards, and have added your letter to our administrative docket for the rulemaking.

As you note in your letter, the proposed rule would provide auto manufacturers with the certainty needed to make long-term investments in advanced technology vehicles. Also, this would ensure that all manufacturers can build a single fleet of U.S. vehicles that would satisfy requirements of both federal programs as well as California's program, thus helping to reduce costs and regulatory complexity while providing significant energy security and environmental benefits. On July 29, 2011, President Obama announced the support of 13 manufacturers representing over 90 percent of vehicle sales, as well as the United Auto Workers (UAW) and the State of California, to pursue the next phase in the national vehicle program.

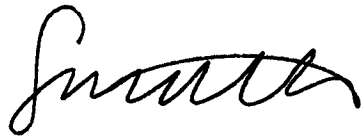
The proposed MY 2017-2025 standards are projected to save approximately 4 billion barrels of oil and 2 billion metric tons of GHG emissions over the lifetimes of those light duty vehicles sold in MY 2017-2025. The agencies estimate that fuel savings will far outweigh higher vehicle costs, and that the net benefits to society of the MYs 2017-2025 National Program will be about $421 billion (assuming a 3 percent discount rate) over the lifetimes of those vehicles sold in MY 2017-2025. These proposed standards would have significant savings for American families at the pump. Higher costs for new vehicle technology will add, on average, about $2,000 for consumers who buy a new vehicle in MY 2025. Those consumers who drive their MY 2025 vehicle for its entire lifetime will save, on average, about $6,600 (assuming a 3 percent discount rate) in fuel savings, for a net lifetime savings of about $4,400 -- assuming gasoline prices remain at essentially current levels.

Your letter expressed support for including a "mid-term" review of the 2022-2025 requirements. Given the long time frame at issue in setting such standards, and given NHTSA's obligation to conduct a separate rulemaking in order to establish final standards for vehicles for those model years,

EPA and NHTSA are proposing to undertake a comprehensive mid-term evaluation and agency decision-making process. As part of this undertaking, we will develop and compile up-to-date information for the evaluation, through a collaborative, robust and transparent process, including public notice and comment. The comprehensive evaluation process will lead to final action by both agencies.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

United States Senate

WASHINGTON, DC 20510

February 10, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to follow up on our inquiry regarding opportunities under current law to further incentivize the cleanup of abandoned hardrock mines by Good Samaritans, such as qualified non-governmental organizations that have no connection to mining activities.

These parties need specific guidance from the Environmental Protection Agency (EPA) so that they are fully informed about cleanup opportunities, and they need certainty that they will not be subject to enforcement under the Clean Water Act for taking appropriate actions to address contamination at abandoned hardrock mines. We believe that there is flexibility under current law to help incentivize cleanups at abandoned hardrock mine sites. We ask EPA to provide clarity to those qualified non-governmental organizations, while continuing to ensure that responsible parties are held liable for the harmful environmental legacy at abandoned mines.

While hardrock mining has promoted growth and a rich cultural heritage, it has also damaged rivers, streams, and lakes that are essential resources in the arid West. Incentivizing cleanups by non-governmental organizations can help improve water quality and assist local economies.

The West is one of the fastest growing regions in the nation and is very dependent on safe and adequate water supplies. The Government Accountability Office estimates that the twelve western states and South Dakota have about 160,000 abandoned hardrock mines. These sites can leach heavy metals, including arsenic, lead, and mercury, that can cause cancer and harm the reproductive system, pollute drinking water supplies, and injure wildlife.

Federal agencies lack sufficient funds to complete all needed cleanups. Encouraging qualified non-governmental organizations to assist in the cleanup efforts could make a significant contribution to the remediation of these sites.

We would like a preliminary report on your response to our request in this letter by February 29, 2012.

Thank you very much for your attention to this important matter. Please contact Grant Cope and Tom Fox with the Environment and Public Works Committee (224-8832) and Jimmy Hague with Senator Mark Udall (224-5941) with any questions.

Sincerely,

Barbara Boxer
Chairman
Committee on Environment and Public Works

Mark Udall
U.S. Senator

Michael F. Bennet
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR - 9 2012

OFFICE OF
WATER

The Honorable Mark Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

Thank you for your letter of February 10, 2012, to the U.S. Environmental Protection Agency Administrator Lisa P. Jackson regarding abandoned mine lands cleanups by Good Samaritans. The Administrator has asked me to respond to your inquiry.

The EPA fully understands the impacts to public health and the environment from the many abandoned mines in the western United States. Moreover, the agency is committed to continue to work with you, your staff, the affected states, and all of the stakeholders involved.

Currently, the EPA staff is working diligently on a clarification of our interpretation of the law and regulations for qualified non-governmental organizations that have no connection to the mining activities or any liability or responsibility for the cleanup of the mine site.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may call Denis Borum, in the EPA's Office of Congressional and Intergovernmental Relations, at 202-564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

December 19, 2011

Mr. Peter Pagano
Environmental Protection Agency Headquarters
401 M St
Waterside Mall
Washington, DC 20460-0001

Dear Mr. Pagano,

I am writing on behalf of (b) (6), a Colorado constituent who contacted my office requesting assistance. I am enclosing a copy of (b) (6) and his Privacy Act Consent form.

I would appreciate your looking into this for me and taking any appropriate action consistent with applicable laws and regulations. Please respond to Susan Holappa, my Constituent Services Advocate in my Grand Junction office at 400 Rood Avenue, Federal Building Suite #215, Grand Junction, CO 81501, fax at 970-245-9523, phone at 970-245-9553, or e-mail at *susan_holappa@markudall.senate.gov*.

As always, thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

December 8, 2011

Susan Hollapa
Office of Sen. Udall

Dear Susan,

We would like to know what the EPA has done, if anything, regarding the toxic chemicals and environment at General Industrial Diamond Company in Montrose, CO. I left the company in 2003, after working there since 1996, due to illness caused by exposure to various toxic chemicals. My attorney's July 13, 2007 letter to the Administrative Law Judge and my December 10, 2003 letter to OSHA letter to OSHA are the best summaries of what occurred at General Industrial Diamond and my health problems.

I hope the EPA is/was aware of General Industrial Diamond Company's business operations. The company is now a subsidiary of 3M Corp. Contacting OSHA never made any difference.

Thank you.

(b) (6)

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R8-11-002-1538
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

JAN 26 2012

Ref: 8ENF-RC

The Honorable Mark Udall
Attn: Ms. Susan Holappa, Constituent Services Advocate
400 Rood Avenue, Federal Building Suite #215
Grand Junction, CO 81501

Dear Ms. Holappa:

The U.S. Environmental Protection Agency Region 8 (EPA) is in receipt of Senator Udall's December 19, 2011, letter on behalf of (b) (6) . Based on our review of (b) (6) correspondence, this matter appears to be a potential hazardous constituents/materials/substances and/or hazardous waste human exposure issue. As such, the primary federal agency to address (b) (6) claims would be the Occupational Safety and Health Administration (OSHA).

However, based upon the nature of the business of General Industrial Diamond Company (USEPA ID# COR000211045), certain processes at that facility could also potentially be regulated under the federal Resource Conservation and Recovery Act (RCRA). In Colorado, the RCRA hazardous waste program has been delegated by the EPA to the Department of Public Health and Environment (CDPHE), and that agency has the lead for implementing RCRA regulations with EPA oversight. A review of our database shows that CDPHE conducted a citizen's complaint hazardous waste compliance evaluation inspection (CEI) at the Company's facility in Montrose, Colorado, on April 18, 2005, a couple of years following the cessation of (b) (6) s employment there. For additional information regarding the Company's compliance with RCRA regulations, (b) (6) e may wish to contact Ms. Diana Huber with CDPHE's Hazardous Materials and Waste Management Division Records Center. Ms. Huber can be reached at 303-692-3331, or at CDPHE's offices located at 4300 Cherry Creek Drive South, Denver, CO, 80246-1530, and could provide copies of CDPHE's facility file for the Company.

We appreciate receiving Senator Udall's inquiry, and I hope this information will be useful in his responding to (b) (6) . If the EPA may be of further assistance, please do not hesitate to contact Sandy Fells, our Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program

cc: Ms. Diana Huber

Congress of the United States
Washington, DC 20515

December 16, 2011

The Honorable Lisa P. Jackson
Office of the Administrator
Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC. 20004

Dear Administrator Jackson:

Earlier this year, Colorado Governor John Hickenlooper submitted a State Implementation Plan (SIP) to EPA to reduce regional haze pollution in existing Class I areas in Colorado. The SIP has been reviewed and endorsed by the state's electric utilities, conservation organizations, the bipartisan state legislature, the governor, the Colorado Air Quality Control Commission, and the Colorado Public Utilities Commission. We ask that you give strong consideration to approving the plan as a whole so Colorado can continue its record of environmental and economic progress.

The SIP submitted earlier this year is designed to significantly reduce harmful emissions of sulfur dioxide, nitrogen oxide and other pollutants in Class I areas in Colorado under the requirements of the Clean Air Act's Regional Haze program. Having been subject to state-administered environmental and economic assessments, the plan will address visibility concerns in treasured national park and wilderness areas that are at the heart of Colorado's tourism and recreation industries, as well as quality of life.

In working to achieve these important goals, Colorado followed an exemplary and inclusive stakeholder approach that has earned Colorado's proposal broad support within the state. The Colorado Air Quality Control Commission conducted several public hearings to collect input from both public and private sector partners. The hearings included participation from relevant state government agencies, regional utilities, and organizations focused on resource protection. The Colorado Public Utilities Commission reviewed and approved many of the emissions reductions included in the SIP. The SIP also received broad, bipartisan support in both houses of the state legislature, something that speaks to its balanced and thoughtful approach to reducing harmful pollution.

Colorado's proposed SIP is an aggressive and achievable plan for pollution reduction. We urge you to give it full and prompt consideration for approval so that the people of Colorado can realize its benefits as soon as possible.

Thank you for your attention to this matter, and please do not hesitate to contact our offices with any questions.

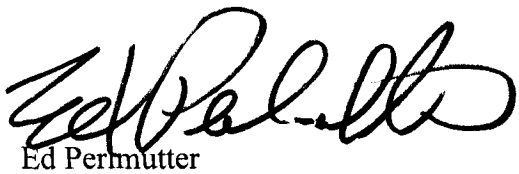
Sincerely,

Mark Udall
U.S. Senator

Michael F. Bennet
U.S. Senator

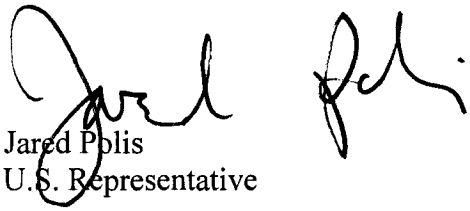
Diana DeGette
U.S. Representative

Doug Lamborn
U.S. Representative

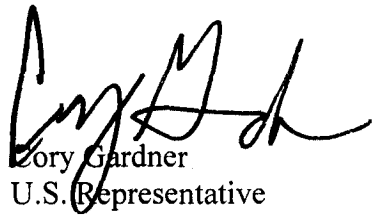


Ed Perlmutter
U.S. Representative

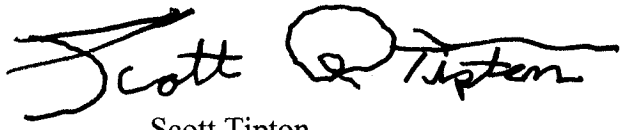
Mike Coffman
U.S. Representative



Jared Polis
U.S. Representative



Cory Gardner
U.S. Representative



Scott Tipton
U.S. Representative

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 2 8 2012

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of December 16, 2011, co-signed by eight of your colleagues, to Administrator Lisa Jackson concerning the U.S. Environmental Protection Agency's action regarding Colorado's regional haze state implementation plan (SIP). In the letter, you request that the Administrator give the SIP full and prompt consideration for approval so that the state can continue its record of environmental and economic progress and the people of Colorado can realize the SIP's benefits as soon as possible. The Administrator asked that I reply on her behalf.

We greatly appreciate the enormous effort Colorado has made to develop the SIP and the state's commitment to improve visibility and enhance the vistas in our national parks and wilderness areas. We are in the process of reviewing and acting on the state's regional haze SIP. I assure you that we will consider the information in your letter as we proceed. We expect to propose action on the SIP by March 8, 2012, and to sign a final action by September 10, 2012.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

cc: James B. Martin
Regional Administrator
EPA Region 8

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

September 21, 2011

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator Jackson,

I am writing in support of the Watershed Assessment underway for Bristol Bay, Alaska. I have long believed public policy decisions should be based on sound science as well as stakeholder input, and I commend the agency for working to ensure these goals are upheld as it evaluates how future development may impact this sensitive ecosystem.

As you know, Bristol Bay is home to one of the largest wild Salmon fisheries in the world, supporting the local commercial and sport fishing industries that play an integral role in Alaska's economy. But the fishing industry also supports many of my constituents in Colorado, who have contacted me with their concerns about the future health of Bristol Bay. Colorado's outdoor industry includes guides, outfitters, manufacturers and others that rely on a strong sport fishing industry, and a healthy Bristol Bay is an important part of that industry. Additionally, many Coloradans hold commercial fishing licenses in Bristol Bay and they and their employees are supported by Bristol Bay's bountiful ecosystem.

In Alaska as in Colorado, the health of our land and water is integral to the health of our communities and economy. Balanced and safe natural resources development is a way of life in the West, and an open and transparent Watershed Assessment that values the views of all stakeholders and sound science will help to ensure that Bristol Bay remains a national treasure for generations.

My staff and I look forward to monitoring the Watershed Assessment as it moves forward, and I respectfully request you keep my office informed of its progress.

Sincerely,

Mark Udall
United States Senator

CC: Dennis McLerran, EPA Region 10 Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

October 21, 2011

OFFICE OF THE
REGIONAL ADMINISTRATOR

The Honorable Mark Udall
United States Senate
SH-328 Senate Hart Office Building
Washington, DC 20510

Dear Senator Udall:

Thank you for your letter on August 25, 2011, to Administrator Jackson, commending EPA's decision to conduct a Watershed Assessment for Bristol Bay, Alaska. Administrator Jackson has asked me to respond on her behalf. Both Administrator Jackson and I appreciate your expressed support for the EPA Bristol Bay Watershed Assessment, and we agree that characterizing the risks of large-scale development, primarily in the Kvichak and Nushagak drainages, is a prudent first step for making decisions about the future actions that will serve and protect the people and environment in Alaska.

We will be happy to provide you and your staff with updates on this important project. If you have any questions or would like more information, please feel free to call Richard Parkin, our EPA lead for conducting this watershed assessment. Mr. Parkin can be reached at (206)553-8574.

Sincerely,

Dennis J. McLerran
Regional Administrator

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

August 9, 2011

Mr. David McIntosh
Associate Administrator for Congressional and Intergovernmental R$elations
Environmental Protection Agency
1200 Pennsylvania Ave NW
Room 3426 Arn
Washington, DC 20460-0001

Dear Mr. McIntosh,

I am writing on behalf of (b) (6) who contacted my office requesting assistance. I am enclosing a copy of this constituent's letter.

I would appreciate your looking into this for me and taking any appropriate action consistent with applicable laws and regulations. Please respond to my Denver office at casework@markudall.senate.gov, 999 18th Street #N1525, Denver, CO 80202, phone 303-650-7820, or fax 303-293-0507. As always, thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

The following was what I attempted to post using the web form, but I got an email from your office today saying that you had my contact info, but not the text that follows.

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

I am a volunteer firefighter in Timberline Fire Protection District. This is not a department request, rather one from me as an individual. The Senator owns a house in Eldorado Springs, whose district is adjacent to ours.

When fighting structure fires, delivering water is critical. The gallons per hour that you deliver determines how much of the structure you can save, once the fire progresses much. Gallons per hour is the product of tank size (gallons per trip) and speed (trips per hour). We deliver water in tenders (tanker trucks). Sugarloaf Fire bought a 2,000 gallon tender in 2003, with a 450hp diesel that worked well on our steep mountain roads. Our chief asked us to buy "that tender" for our department. The BOD budgeted $280,000 for that tender. In 2010, the EPA instituted new regulations for diesel trucks. Today, the same motor in the same truck only yields 330 hp. That translates to 8mph with 2,000 gallons of water on many of the roads in our district. To upgrade to a 430hp engine in a heavier framed truck would cost an extra $80,000 (an increase of over 25%), and still not perform as well as the 2003 tender that Sugarloaf bought. This new tender will replace a 1980 IH (1,250 gallons) that has about 11,000 miles on it. Volunteer fire departments like ours do not drive a lot of miles (and do not generate a lot of exhaust pollution).

We will find another tender, probably a pre-2010 used one. I'm writing because we cannot be the only rural, volunteer fire department which is fighting this fight. We have seven stations and 25 trucks, so we replace about one a year. Would it be possible for the EPA to institute some kind of waiver program for rural, volunteer fire departments whose trucks see limited mileage? Over 70% of this country's firefighters are volunteers. Their districts cannot afford to pay for firefighters. Asking them to pay 25% more for a fire truck that pollutes a little less is a burden. The fact that they are driven so few miles only accentuates how small the benefits of the regulation are in this application.

Respectfully,

--

(b) (6)


~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 0 4 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senator
999 18th Street #N1525
Denver, Colorado 80202

Dear Senator Udall:

Thank you for your letter dated August 9, 2011, on behalf of your constituent, (b) (6), concerning diesel truck regulations. (b) (6) raised concerns about the performance and cost of new fire trucks and asks if the U.S. Environmental Protection Agency can institute a waiver program for rural, volunteer fire departments.

Emergency vehicles, such as police cars, fire trucks, and ambulances, have always met the same emission standards as other cars and trucks. There are no provisions in the regulations for waivers for emergency vehicles and the EPA does not anticipate amending regulations to adopt such provisions. The EPA takes this matter seriously and has worked closely with the Fire Apparatus Manufacturers Association and heavy-duty engine manufacturers during our regulatory development process to ensure engine designs will meet emergency equipment performance requirements and emission standards.

(b) (6) references the cost increase from a 2003 vehicle to a comparable 2010 vehicle. While costs have increased, emissions from 2010 vehicles have dramatically decreased. The 2010 vehicle will be at least 90 percent cleaner than the 2003 version.

Again, thank you for your letter. If you have further questions please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

1060823

United States Senate

WASHINGTON, DC 20510

July 25, 2011

The President
The White House
Washington DC, 20500

Dear Mr. President:

As authors and supporters of the Ten-in-Ten Fuel Economy Act (Public Law 110-140), we appreciate your efforts to implement this legislation by increasing the fuel efficiency of our nation's fleet of vehicles at the "maximum feasible" rate. We understand that your Administration is in stakeholder discussions regarding standards for cars, pick-up trucks, and SUVs from 2017 to 2025. We thank you for your efforts to build consensus around strong standards that meet the statutory mandate, and we encourage you to ensure that the standards resulting from these talks will not be weakened.

Your Administration's implementation of the Ten-in-Ten Fuel Economy Act for Model Years 2012 through 2016 will provide significant results for the American people and will dramatically improve our nation's energy security. These harmonized standards – the first fleetwide increase in Corporate Average Fuel Economy (CAFE) standards in 25 years – will raise the fleetwide average to the equivalent of 35 mpg by 2016, save about 1.8 billion barrels of oil, and reduce nearly a billion tons of greenhouse gas emissions over the lives of the vehicles covered. As a result, American consumers will have more efficient vehicle choices in the market just as the price of oil has risen substantially this year.

We strongly support the cooperative approach and methodology taken to date. As you know, the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) have spent many months working cooperatively to draft harmonized standards regulating the fuel efficiency and pollution of cars, pick-up trucks, and SUVs from 2017 to 2025 consistent with the Ten-in-Ten Fuel Economy Act's mandate to increase standards at the maximum feasible rate. The agencies' technical assessment demonstrates that a significant increase in fleetwide fuel economy – six percent annually – is both technically feasible and cost effective for consumers.

We understand your Administration is currently discussing a proposal that would increase fuel economy five percent annually, based on additional analysis by EPA and DOT that demonstrates that this rate of increase would be the most accurate reflection of the statutory mandate. However, we understand that the industry continues to push for a less aggressive standard, particularly with regard to the least efficient and largest light duty vehicles produced, which would be significantly below what is technically feasible and cost effective. We encourage you to work to craft a fair standard that addresses industry concerns, but to ensure that standards will increase at the rate sound analysis has demonstrated to be technically feasible, cost effective to American consumers, and consistent with the "maximum feasible" increase mandated by law.

Your implementation of this law will save American consumers and businesses billions of dollars at the gas pump for decades to come. This year's spike in oil prices reminds us once again of the importance of efforts to reduce America's dependence on oil. We appreciate that your Administration has taken the initiative to propose harmonized standards that aggressively reduce both oil use and pollution.

We thank you for working to improve these regulations in order to assure that they attain the goals of the Ten-in-Ten Fuel Economy Act.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 16 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of July 25, 2011, co-signed by 18 of your colleagues, regarding the fuel economy and greenhouse gas (GHG) emissions standards for model years 2017 to 2025 passenger cars and light trucks. We appreciate your comments and value your interest in these standards, and have added your letter to our administrative docket for the rulemaking.

The U.S. Environmental Protection Agency and National Highway Traffic Safety Administration are committed to a strong and comprehensive national program to reduce GHG pollution and enhance our energy security. On July 29, 2011, the President announced a historic agreement with thirteen automakers and the State of California, with the support of the United Auto Workers, to pursue the next phase in the national vehicle program. The standards, which would require performance equivalent to 163 grams of CO_2 per mile or 54.5 miles per gallon by 2025, will reduce America's dependence on foreign oil and result in significant savings at the pump for American families. Importantly, under the new standards, consumers will continue to have access to the same full range of vehicle choices that they have today.

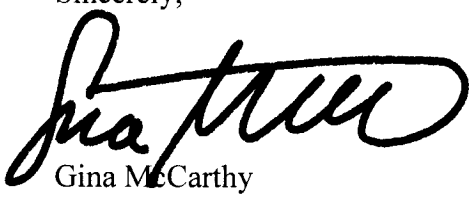
Information on this announcement, including letters of support from the 13 automakers and a Supplemental Notice of Intent issued by the EPA and NHTSA which provides an outline of the agreement, is available on our website at: http://www.epa.gov/otaq/climate/regulations.htm.

The EPA understands the concerns you raise in your letter regarding the need for a balanced approach for setting new standards. We are working closely with auto manufacturers and other stakeholders to ensure the upcoming standards are achievable, cost effective, and preserve consumer choice. I assure you that we are carefully analyzing the potential impacts of the standards under consideration.

The EPA and NHTSA will issue a joint proposed rulemaking which will include full details on the proposed program and supporting analyses, including the costs and benefits of the proposal and its effects on the economy, auto manufacturers, and consumers. The EPA understands the public interest in this rulemaking and is committed to broad public participation. We will carefully consider all the comments we receive.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

United States Senate

WASHINGTON, DC 20510

June 13, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Jackson:

We write to request that the Environmental Protection Agency ("EPA") enhance its efforts to facilitate the cleanup of abandoned mines lands by clarifying existing agency guidance and expanding outreach to stakeholders who work to restore water quality in the West by helping to clean up old mining sites.

Hardrock mining has played an important role in our nation's history and economy, and its activities have been responsible for a considerable and lasting impact on our water resources, particularly in the arid western parts of our nation. The Government Accountability Office estimates that there are roughly 160,000 abandoned hardrock mines in the twelve western states and South Dakota, with more than 47,000 sites in California and 7,300 in Colorado.

Many of these sites leach heavy metals, such as arsenic, lead and mercury, which can cause cancer and harm to the reproductive and nervous systems, and acids that can damage drinking water supplies, wildlife and sensitive habitats. The arid West is one of the fastest growing parts of our country and is very dependent on adequate and safe water supplies. We simply cannot afford to let these sites continue to pollute our water supplies.

Cleaning up these sites can be especially difficult when there are no identifiable or viable responsible parties to pay for such cleanup. Federal land management agencies simply do not have sufficient funds to complete all of the needed cleanups. Third party groups, called "Good Samaritans," that have no responsibility for the mining activities or resulting pollution have in some cases proposed to conduct remediation.

The EPA has existing guidance that encourages potential Good Samaritans to enter into voluntary agreements with EPA or federal land management agencies that helps to facilitate Good Samaritan cleanups. However, we are concerned that this guidance does not sufficiently describe the flexibility under the Superfund law to promote Good Samaritan cleanups. In particular, we believe that the guidance could be updated to provide additional clarity to Good Samaritans that compliance with such agreements is sufficient to satisfy requirements that help protect environmental quality, including water quality.

For example, we have heard that some potential Good Samaritans consider liability under the Clean Water Act a barrier to abandoned mine clean-up projects. A concern is whether a Good Samaritan cleanup, conducted pursuant to a Superfund agreement with a Federal agency, is relieved of the need to get a Clean Water Act permit for a passive water treatment system with a long-term discharge. We would like you to address this concern in a response, and we have identified several related questions in the attachment about the use of the guidance that we would like EPA to address in the response.

When EPA issued this guidance in 2007 the Agency stated that it would update the guidance as EPA gained experience with its implementation. We believe that it is time for EPA to update this guidance to better promote cleanups of these sites. We would like to meet with EPA in anticipation of this update to better understand the steps that the Agency will take in response to this request.

Sincerely,

Barbara Boxer
Chairman
Committee on Environment
and Public Works

Mark Udall
U.S. Senator

Michael F. Bennet
U.S. Senator

Attachment

Attachment: Additional Questions

In June 2007, EPA issued guidance to encourage potential Good Samaritans to enter into a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Administrative Settlement Agreement and Order on Consent (ASAOC) with EPA and/or the federal land management agencies for removal actions at abandoned hardrock mine sites. By entering into an ASAOC, the Good Samaritan is provided certain legal protections under CERCLA. In addition, the Good Samaritan is shielded from Clean Water Act liability by the CERCLA section 121(e) permit exception.

Please address the following questions about the use and limitation of the June 2007 guidance.

1. Would EPA consider the typical passive treatment system installed at abandoned mine sites to be "entirely onsite," within the meaning of CERCLA section 121(e)(1), even though some pollutants would exit the treatment system and be deposited in receiving water bodies? EPA's CERCLA Compliance with Other Laws Manual: Interim Final, Part 1, at 3-2 (1988), seems to answer this question in the affirmative when it notes that "a direct discharge of Superfund wastewaters would be 'on-site' if the receiving water body is in the area of contamination or is in very close proximity to the site and necessary for implementation of the response action (*even if the water body flows off-site*)," (emphasis added), but this document is labeled as "interim final" and marked as a "draft."

2. In the context of an ASAOC for a removal action that ordered installation of a passive water treatment system to treat abandoned mine discharge, would EPA interpret CERCLA's section 121(e)(1) permit shield as extending beyond the completion of the removal action and after EPA or the federal land manager has notified the Good Samaritan that it has satisfied the terms of the ASAOC?

3. If it is EPA's position that the Section 121(e)(1) permit shield falls away at the end of the removal action, when would this legal protection end? Would the permit shield end immediately upon construction completion or at such time that EPA notifies the Good Samaritan that it has complied with all of the terms of the ASAOC? Or, if the removal action includes an operation and maintenance (O&M) period, does the permit shield disappear at the end of the O&M period? What if the O&M is being conducted by EPA or the federal land manager and not the Good Samaritan? Or, does the permit shield no longer apply to the removal action at some arbitrary time in the future?

4. If it is EPA's position that the Section 121(e)(1) permit shield no longer protects the Good Samaritan at some point in time after the removal action is completed, what about the other CERCLA legal protections afforded the Good Samaritan under the ASAOC, such as third-party contribution protection, cost caps, and the covenant not to sue? Do these statutory protections also fall away at the same time that the permit shield becomes inapplicable? If not, how does EPA distinguish between these legal protections and the Section 121(e)(1) permit shield?

5. EPA's Interim Guidance and Model ASAOC provide that EPA may, in its discretion,

require a Good Samaritan to pay EPA for its oversight costs in connection with the removal action. In the two Good Samaritan ASAOCs EPA has entered so far, both involving Trout Unlimited, EPA required the Good Samaritan to pay for some portion of oversight costs. The U.S. Forest Service did not require the Good Samaritan to pay oversight costs in its ASAOC. Under what circumstances does EPA believe that Good Samaritans should pay EPA's oversight costs? Has EPA assessed the extent to which requiring Good Samaritans to pay oversight costs discourages Good Samaritans from agreeing to such cleanups?

6. Given that a Good Samaritan ASAOC is a voluntary agreement with a non-liable party, are there any modifications that can be made to the model ASAOC that can simplify the agreements, without compromising the legal protections afforded to the Good Samaritan?

7. Describe what impediments EPA has encountered in promoting Good Samaritan cleanups and what actions EPA plans to take to revise its Good Samaritan Guidance documents and to conduct outreach to potential Good Samaritans to further promote the cleanup of abandoned hardrock mine sites.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 14 2011

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

Dear Senator Udall:

Thank you for your letter of June 13, 2011 to Administrator Jackson regarding abandoned mine lands, Good Samaritan cleanups and the flexibility of EPA's June 6, 2007 Interim Guiding Principles for Good Samaritan Projects at Orphan Mine Sites and Transmittal of CERCLA Administrative Tools for Good Samaritans (hereafter, "guidance"). The Administrator asked that I respond to your letter.

As your letter suggests, there are many abandoned hardrock mining sites contributing to environmental damage throughout the western United States. Some of these sites rise to a level of environmental concern that makes them a priority for cleanup under EPA's Superfund program and are addressed by removal or remedial actions. Several of the sites have been addressed under EPA's Good Samaritan initiative and others may have been addressed through state voluntary cleanup programs. EPA has also addressed some of these sites through its Brownfields Program, the Clean Water Act Nonpoint Source Program and the Clean Water Act State Revolving Loan Program.

Our experience with the Good Samaritan initiative indicates that two factors can limit Good Samaritan participation: perceived legal risk and inadequate funding. We have sought to address the perceived risk question through our Model Good Samaritan Settlement and Administrative Order on Consent for Removal Actions at Orphan Mine Sites and our Model Good Samaritan Comfort/Status Letter. These administrative tools reduce the threat of liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and will encourage more Good Samaritans to restore watersheds impacted by acid mine drainage from abandoned mine sites. When proposed cleanups address only contaminated soils or the diversion of clean water, the tools, statutes and experience with these cleanups should provide the reassurance that potential Good Samaritans seek. Where cleanups address contaminated water, which may lead to a point source discharge, many in the Good Samaritan community believe that CERCLA-based assurances are not enough. As discussed in the enclosure to this letter, it appears that these perceptions of legal risk have not been fully addressed by EPA's guidance or legal interpretations, nor have they yet been tested in any judicial decision. EPA is currently exploring internally some potential options regarding Good Samaritan liability. Once the Agency has fully reviewed any new potential options, the agency will reach out to stakeholders, including Members of Congress, who are interested in abandoned mine cleanups.

As to funding, remediation of abandoned mining sites can be very expensive, ranging

from thousands of dollars for contaminated soils to tens of millions for cleanups addressing source areas, including contaminated water. Nonprofits and both State and local governments, the most likely Good Samaritans in these situations, and Federal agencies face reduced resources. In the past, Good Samaritans could have relied on matching funding from EPA, such as the Clean Water Act Section 319 program and philanthropic partnerships. These programs had only enough funds to assist in a small number of the lower-cost response actions, and their funding is diminishing each year. Funding will remain a major impediment for nonprofits and State or local governments who may want to participate in a Good Samaritan cleanup.

Despite these obstacles, EPA is committed to finding means by which the environmental problems caused by abandoned mining sites can be addressed and to clarify our position in order to reduce barriers to participation. As explained in this letter and the enclosure, it is not clear that all of these barriers can be overcome solely by application of the Good Samaritan Administrative tools.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum, here in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

Arvin R. Ganesan
Associate Administrator

ENCLOSURE: Responses to Specific Questions

1. **Would EPA consider the typical passive treatment system installed at abandoned mine sites to be "entirely onsite," within the meaning of CERCLA section 121(e)(1), even though some pollutants would exit the treatment system and be deposited in receiving water bodies? EPA's CERCLA Compliance with Other Laws Manual: Interim Final, Part 1, at 3-2 (1988), seems to answer this question in the affirmative when it notes that "a direct discharge of Superfund wastewaters would be 'on-site' if the receiving water body is in the area of contamination or is in very close proximity to the site and necessary for implementation of the response action** ***(even if the water body flows off-site),*** **" (emphasis added), but this document is labeled as "interim final" and marked as a "draft."**

   EPA believes that any treatment system addressing an abandoned mine discharge would be entirely "on-site." Section 300.400(e)(1) of the National Contingency Plan defines "on-site" to include "the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action." Further, in the preamble to the proposed NCP, EPA stated that "a direct discharge of CERCLA wastewater would be an on-site activity if the receiving water body is in the area of contamination or is in very close proximity to the site, even if the water flows off-site."[1]

2. **In the context of an ASAOC for a removal action that ordered installation of a passive water treatment system to treat abandoned mine discharge, would EPA interpret CERCLA's section 121(e)(1) permit shield as extending beyond the completion of the removal action and after EPA or the federal land manager has notified the Good Samaritan that it has satisfied the terms of the ASAOC?**

   EPA is not aware of any case law, policy or situation where the CERCLA section 121(e) permit shield extends past the completion of work in a removal action. As the NCP states (at 55 FR 8756-7, March 8, 1990), the permit shield reflects "Congress' judgment that CERCLA actions should not be delayed by time-consuming and duplicative administrative requirements such as permitting, although remedies should achieve the substantive standards of applicable or relevant and appropriate laws." EPA understands from discussions with prospective volunteers that the potential threat of liability under the Clean Water Act (CWA) continues to discourage Good Samaritan cleanups. A volunteer conducting a partial cleanup under an ASAOC could have concerns about being obligated to obtain a discharge permit requiring compliance with water quality standards in a stream already in violation of these standards, after successful completion of the work under the ASAOC. EPA recognizes the issue of CWA liability uncertainty and the Agency is working internally to find a way to minimize this uncertainty and, we hope, to create incentives for Good Samaritan cleanups.

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[1] USEPA. 1988. National Oil and Hazardous Substances Pollution Contingency Plan. Proposed Rule. *Federal Register* 53: 51394-51474 (page 51407). December 21, 1988.

3. **If it is EPA's position that the Section 121(e) permit shield falls away at the end of the removal action, when would this legal protection end? Would the Permit Shield end immediately upon construction completion or at such time as EPA notifies the Good Samaritan that it has complied with all of the terms of the ASAOC? Or, if the removal action includes an operation and maintenance (O&M) period, does the permit shield end at the end of the O&M period? What if the O&M is being conducted by the EPA or a Federal Land Manager and not the Good Samaritan? Or does the permit shield no longer apply to the removal action at some arbitrary time in the future?**

   See answer to #2, above.

4. **If it is EPA's position that the Section 121(e) permit shield no longer protects the Good Samaritan, at some point in time after the removal action is completed, what about the other CERCLA legal protections afforded the Good Samaritans under the ASAOC, such as third party contribution protection, cost caps, and the covenant not to sue? Do these statutory protections also fall away at the same time that the permit shield becomes inapplicable? If not, how does EPA distinguish between these legal protections and the section 121 (e)(1) permit shield?**

   Both contribution protection and covenants not to sue are typically perpetual absent violation of the agreement. However, they do not address the concerns of Good Samaritans. Contribution protection only affords protection from claims made by those who have incurred response costs addressing contamination at the site. It does not address suits against the Good Samaritan by states or citizens alleging violations of the Clean Water Act. The covenant not to sue only limits suits by parties executing the agreement (in this case, the EPA). Good Samaritans continue to be concerned about Clean Water Act citizen suits.

5. **EPA's Interim Guidance and Model ASAOC provide that EPA may, in its discretion, require a Good Samaritan to pay EPA for its oversight costs in connection with the removal action. In the two Good Samaritan ASAOCs EPA has entered so far, both involving Trout Unlimited, EPA required the Good Samaritan to pay for some portion of oversight costs. The U.S. Forest Service did not require the Good Samaritan to pay oversight costs in its ASAOC. Under what circumstances does EPA believe that Good Samaritans should pay EPA's oversight costs? Has EPA assessed the extent to which requiring Good Samaritans to pay oversight costs discourages Good Samaritans from agreeing to such cleanups?**

   EPA oversight of a cleanup is necessary if a Good Samaritan wishes to perform a cleanup under either a Comfort Letter from, or an ASAOC with, EPA and the liability protections Good Samaritans seek are generally contingent upon EPA oversight. The extent and cost of EPA's oversight will depend on the complexity of the work to be performed. In general, more complex and longer cleanups will require more EPA oversight. While EPA's guidance contemplates that EPA will grant a Comfort Letter without recovering oversight costs, the guidance allows EPA the option of recovering all or a portion of its

oversight costs in the ASAOC anticipated for more complex cleanups. EPA's ability to participate in and prioritize Good Samaritan cleanups is related to the availability of time of appropriate personnel and the funding within relevant budgets, and EPA guidance calls for EPA to factor in these costs in deciding whether to participate in a Good Samaritan cleanup. One of the up-front considerations for EPA in accepting a Good Samaritan proposal is evidence of the Good Samaritan's financial responsibility to conduct the cleanup, which may include payment of oversight costs. There may be some more complex cleanups for which EPA can only justify expending significant personnel time and other resources on oversight in the context of an agreement including recovery of all or a portion of these costs.

However, on a case-by-case basis, EPA will evaluate the extent to which oversight cost recovery is necessary for EPA involvement, and how recovery of oversight costs affects Good Samaritans' willingness to undertake voluntary response actions.

6. **Given that a Good Samaritan ASAOC is a voluntary agreement with a non-liable party, are there any modifications that can be made to the model ASAOC that can simplify the agreements, without compromising the legal protections afforded to the Good Samaritan?**

Section 107(d) of CERCLA, a foundation of Good Samaritan protection under CERCLA, requires that a Good Samaritan perform actions in compliance with the NCP or at the direction of an on-scene coordinator. This requirement entails a dedication of time and resources by both the Good Samaritan and EPA. In an effort to simplify and streamline the administrative order process for Good Samaritans, the EPA did a significant amount of work developing the Model Settlement Agreement, Model Comfort Status Letter and Guiding Principles. At this point, there has not been enough experience with these to determine which, if any, further simplifications or modifications might prove valuable. The Agency remains committed to working with interested entities and considering any relevant and appropriate ideas that could simplify the process.

7. **Describe what impediments EPA has encountered in promoting Good Samaritan cleanups and what actions EPA plans to take to revise its Good Samaritan Guidance documents and to conduct outreach to potential Good Samaritans to further promote the cleanup of abandoned hardrock mine sites.**

To date, there have been very few Good Samaritans who have approached the agency to enter into an ASAOC to clean up abandoned mines. As discussed in the cover letter, the major impediments to Good Samaritan participation are questions regarding legal risk and inadequate funding. As indicated in the answer to #6, above, there has not been enough experience with the model ASAOC to evaluate whether further simplifications or modifications to the guidelines are of value. EPA remains willing to discuss the best means to address these issues.

EPA will continue its commitment to meet with potential Good Samaritans and work to enter into agreements with them. EPA is also willing to further its outreach efforts to

encourage, discuss and review any proposals presented by potential Good Samaritans with the goal of developing and implementing successful Good Samaritan projects.

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

May 23, 2011

The Honorable Lisa Jackson
Administrator
United States Environmental Protection Agency
Washington, D.C. 20460

Dear Administrator Jackson:

Thank you for your prompt response to my recent letter expressing concerns around the U.S. Environmental Protection Agency's (EPA) review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM).

I am pleased to know that you have been taking concrete steps to ensure that rural and agricultural communities' voices are taken into consideration as the EPA develops options to review the PM NAAQS. I have also been encouraged by news that you have been visiting rural areas in order to engage more of rural America in the discussion on this and other important issues.

As a part of your engagement with rural America, I invite you to Colorado to visit a farm and ranch operation with me to learn firsthand how EPA regulation impacts rural Colorado. Many producers have expressed to me that it is important that EPA, at all levels, make an effort to get firsthand knowledge and understanding of farm and ranching operations. I also believe it is valuable for Colorado's communities to learn more about the work the EPA does. Farmers and ranchers have a deep interest in protecting the land, water and air which they depend on to grow their crops and raise their livestock, a goal I know the EPA also strives to achieve. Improving two way communication and mutual understanding will be good for all sides in this issue.

I hope you will be able to join me at a mutually convenient time in the near future. Should you have any questions, please do not hesitate to contact Jimmy Hague or Simon Tafoya in my office at 202-224-5941.

Sincerely,

Mark Udall

MEU/snt

Cc: Ms. Gina McCarthy, Assistant Administrator
Jim Martin, Region 8 Administrator

United States Senate

WASHINGTON, DC 20510

April 4, 2011

The Honorable Ray LaHood
Secretary
Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Secretary LaHood and Administrator Jackson:

As authors and supporters of the Ten-in-Ten Fuel Economy Act (Public Law 110-140), we appreciate your efforts to advance the goals and requirements of this legislation by increasing the fuel efficiency of our nation's fleet of vehicles. Your implementation of this law will save American consumers and businesses billions of dollars at the gas pump for years to come – an impact made even more important by rising oil prices.

As your agencies establish two more sets of harmonized standards – one regulating the fuel efficiency and pollution of cars, pick-up trucks, and SUVs from 2017 to 2025 and the other establishing the first-ever standards for medium and heavy duty trucks – we write to encourage you to set standards that increase consumer information, reduce pollution, and save money for American families.

Standards for Cars, Pick-up Trucks and SUVs

Your initial joint rule setting new Corporate Average Fuel Economy (CAFE) standards for cars, light-trucks, and sport utility vehicles will raise fleetwide fuel economy to the equivalent of more than 35 miles per gallon by 2016. These harmonized standards demonstrate the success of the Ten-in-Ten Fuel Economy Act, and they reinforce how cost-effective national standards can improve our economy and reduce our reliance on foreign oil. The final rule – the first fleetwide increase in CAFE standards in 25 years – will save about 1.8 billion barrels of oil and reduce nearly a billion tons of greenhouse gas emissions over the lives of the vehicles covered. As a result, American consumers will have more efficient vehicle choices in the market just as the price of oil is rising rapidly.

The final CAFE rule demonstrates that a single program to reduce oil consumption and greenhouse gas emissions under the Ten-in-Ten Fuel Economy Act and the Clean Air Act results in an aggressive policy to advance the goals of

both laws. The regulation also demonstrates that strong Federal standards are the best means to ensure that California and other states are not legally obligated to enforce more aggressive standards to protect the health of their citizens – a right California has had under the Clean Air Act since 1970.

We strongly support the cooperative approach you have taken, and we encourage you to continue your efforts to issue maximum feasible nationally coordinated fuel economy regulations, based on the successful methodology used to date. Your agencies' recently released technical assessment, which discusses harmonized standards for new vehicles sold from 2017 to 2025, demonstrates that a significant increase in fleetwide fuel economy – six percent annually – is both technically feasible and cost effective for consumers. We encourage you to draw on this analysis and recently released peer reviewed studies to develop standards that both meet the Ten-in-Ten Fuel Economy Act's "maximum feasible" increase mandate, and ensure a coordinated national standard.

Information for Consumers and American Businesses

We also would like to comment on the draft standards for medium and heavy duty trucks (Docket ID No. NHTSA–2010–0079). We recommend that the final rules require fuel economy window stickers on large pick-ups and an online tool to allow purchasers to calculate the fuel economy of various truck configurations. Consumers benefit from knowing the fuel economy of vehicles on the market.

The Ten-in-Ten Fuel Economy Act is intended to help consumers and businesses save money at the pump. To accomplish this, American consumers and businesses need easy-to-use information about vehicle fuel economy, so that they may compare vehicles. According to the 2010 National Academy Report:

> *Given the high fuel consumption sensitivity of some medium- and heavy-duty vehicle purchasers, it appears that one priority should be to ensure that accurate information on the fuel consumption characteristics of a completed vehicle is available to the purchaser. Having such information would help drive the selection of vehicles with the lowest fuel consumption for the task performed.*

Clearly, the businesses and consumers who purchase medium and heavy duty vehicles are mindful of the costs of fuel and would utilize information when making purchasing decisions. In light of the NAS guidance, we strongly recommend that the final medium and heavy duty truck fuel economy regulations require a window sticker on every pick-up truck and van above 8,500 pounds,

modeled on the fuel economy label for light duty vehicles, which informs consumers of the vehicle's average fuel economy and estimated annual fuel cost.

The label would be especially helpful to the farmers, contractors, landscapers, and other small business owners who purchase approximately 785,000 of these pick-up trucks each year, but who currently cannot compare the fuel economy of large pick-up truck models. By providing a small business owner with the information to select a truck that gets one additional mile per gallon, EPA and DOT would enable the business owner to save more than $500 per year.

We also recommend that DOT and EPA create an online tool to allow trucking companies and truck drivers to calculate the fuel economy of various vocational vehicle and tractor trailer truck configurations. As your agencies point out in your regulatory impact analysis, "truck fleets typically operate on a very thin profit margin (1-2 percent); therefore, increased truck fuel economy can greatly increase a company's profitability." American industry would profit from being given the information necessary to choose fuel efficient vehicle options.

Obtaining Maximum Feasible Improvement in Fuel Economy

In addition to providing American businesses with the information necessary to make informed choices, The Ten-in-Ten Fuel Economy Act also instructed the Department of Transportation (DOT), in consultation with the Environmental Protection Agency (EPA), to establish fuel economy standards for medium and heavy duty trucks. These standards will provide American businesses with more cost effective means to move goods by requiring trucks to achieve the "maximum feasible improvement" in fuel economy, based on the findings of the National Academy of Sciences report completed in 2010.

The heavy-duty sector addressed in this DOT-EPA proposal accounted for nearly six percent of all U.S. greenhouse gas emissions in 2007. Heavy-duty trucks are the fastest-growing contributor to greenhouse gas emissions within the transportation sector, making it critically important that fuel economy standards for these vehicles be established and increased at the maximum feasible rate.

We are concerned that the fuel economy improvements proposed in the draft regulations are less aggressive than the potential identified by the National Academy Report, and we recommend the final standards be strengthened.

Pick-up Trucks and Vans above 8,500 Pounds

The DOT and EPA propose only a 12 percent improvement in fuel economy for gasoline pickup trucks and vans above 8,500 pounds between 2010

and 2018, and a 17 percent improvement for diesel vehicles of the same class. This is notably less fuel economy improvement than the 25 percent improvement required for cars, light trucks and SUVs under CAFE standards over the next four years. These less aggressive standards result, in large part, from the draft rule not considering all the technologies identified in the National Academy Report.

Many fuel-efficient technologies deployed in pick-up trucks under 8,500 pounds, like the Ford F150, may also be deployed in larger pick-up trucks regulated by this proposal, like the Ford F250. It is therefore concerning that the "maximum feasible improvement" in fuel economy under this regulation is considerably smaller than what is the "maximum feasible" rate attainable for vehicles under 8,500 pounds.

To meet the statutory mandate, we recommend that the final standards be based on the full suite of technologies identified as technologically feasible by the National Academy Report, and should associate as much fuel savings with each technology as the NAS estimated. The NAS identified fuel savings potential from technologies not included in the draft standards: turbocharged-gasoline direct injection systems, cylinder deactivation, and coupled cam phasing. Considering the full package of technologies could more than double the rate at which standards could be increased cost effectively, according to NAS's own estimate.

Vocational Vehicles and Tractor Trailer Trucks

The proposed standards for vocational vehicles – such as delivery trucks – and tractor trailer trucks also do not factor in all the fuel savings technologies identified in the National Academy Report.

The vocational truck standard is based on potential improvements to engines and tires exclusively. Savings potential identified in the National Academy Report from hybridization, aerodynamic improvements, advanced transmission, and mass reduction are not considered. For transmissions, for example, the NAS found savings in the range of 2 to 8 percent.

The draft rule explains that your agencies have chosen not to factor in additional technologically feasible oil savings potential due to concerns that it would add complexity and measurement challenges to the Vocational Truck standard. However, the statute requires the DOT to study and implement a fuel efficiency improvement program for "heavy-duty on-highway vehicles," not just the engines and tires of those vehicles. We recommend your agencies develop objective testing and data collection methods that allow savings from the technologies identified by the NAS to be factored in to the vocational vehicle

standard. If a standard for the full vehicle is not possible at this time, we strongly encourage the final rule to lay out a plan to establish such a standard in the future.

Similarly, we recommend that DOT and EPA reconsider whether to establish standards regarding truck trailer impacts on fuel consumption. The National Academy Report specifically states that "by the 2015 to 2020 time frame, the use of aerodynamic features can provide fuel consumption reductions of about 15 percent for tractor-van trailer vehicles operating at 65 mph." A standard that fails to capture this considerable fuel savings potential would likely not demonstrate the maximum feasible improvement.

Conclusion

The recent spike in oil prices remind us once again of the importance of your cooperative efforts to reduce America's dependence on oil. We are very appreciative that your agencies have taken the initiative to propose harmonized standards that aggressively reduce both oil use and pollution.

We thank you for working to improve these regulations in order to assure that they attain the goals of the Ten-in-Ten Fuel Economy Act. We hope you have found our recommendations helpful.

Sincerely,

Dianne Feinstein
United States Senator

Olympia Snowe
United States Senator

Maria Cantwell
United States Senator

Richard Durbin
United States Senator

Barbara Boxer
United States Senator

Benjamin Cardin
United States Senator

Sheldon Whitehouse
United States Senator

Jack Reed
United States Senator

Jeff Merkley
United States Senator

Joseph Lieberman
United States Senator

Frank Lautenberg
United States Senator

Bill Nelson
United States Senator

Robert Menendez
United States Senator

Mark Udall
United States Senator

Thomas Carper
United States Senator

Daniel Akaka
United States Senator

Daniel Inouye
United States Senator

John Kerry
United States Senator

FAX from . . .

Senator Dianne Feinstein

of California

331 Hart Senate Office Building
Washington, DC 20510
(202) 224-3841

DATE: 4/4/11

TIME: 1:30 pm

TO: 202-501-1519

FROM: 202-228-4741

COMMENTS:

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 23 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of April 4, 2011, co-signed by 17 of your congressional colleagues, addressed to Administrator Jackson and Secretary LaHood. We appreciate your input relating to the upcoming proposed fuel economy and greenhouse gas (GHG) emissions rulemaking for model years 2017 to 2025 passenger cars and light trucks, and to the proposed standards for medium– and heavy-duty vehicles. We value your interest in these programs, and have added your letter to our administrative dockets for both rulemakings. We understand the Department of Transportation will send a response as well.

To address the urgent and closely intertwined challenges of global climate change, energy security, and dependence on oil, and consistent with the Ten-in-Ten Fuel Economy Act, the U.S. Environmental Protection Agency is committed to establishing strong and comprehensive national programs for each of these fleets. The EPA is working closely with the National Highway Traffic Safety Administration to establish coordinated standards that achieve significant reductions in GHG emissions and fuel use that will benefit both consumers and businesses by reducing transportation costs.

The EPA understands the importance of and public interest in these rulemakings and is committed to broad public participation. Regarding the medium– and heavy-duty vehicle rulemaking, we appreciate the detailed comments you provided and note that both agencies have received substantial comments from private citizens as well as a broad range of stakeholders, reflecting a wide variety of viewpoints. We will carefully consider all comments received as we proceed with these rulemakings.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

MARK UDALL
COLORADO

SUITE SH-328
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

March 11, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

I write you to share the concerns of constituents in Colorado regarding the pending review of National Ambient Air Quality Standards (NAAQS) for coarse particulate matter (PM). Specifically, I ask that you give serious consideration to any impact that a more stringent NAAQS for coarse PM may have on Colorado's farming and ranching communities.

As I understand, on February 24, 2009 a U.S. Court of Appeals for the D.C. Circuit decision granted petitions challenging certain aspects of the Environmental Protection Agency's (EPA) revised NAAQS, which, in part, contributed to the EPA expediting its review of these standards. I understand the EPA's requirements to review the NAAQS based on robust scientific methods and its responsibilities under the Clean Air Act; however, I am aware of concerns that a decision to tighten coarse PM standards may have adverse implications for rural Colorado.

In the arid West, dust is part of life, and rural Coloradans understand the health risks when adequate measures are not taken to reduce wind erosion. Many Coloradans, especially on the Eastern plains, recall the experiences of the Dust Bowl of the 1930s when black storms enveloped entire communities, choked livestock and wreaked havoc on crops and on our rural economy. Having learned from this experience, rural Coloradans—namely farmers and ranchers—have a deep understanding of the need for conservation on their lands as a means of responsible mitigation of dust from on-farm activities, including better tilling and crop rotation practices, along with other means. Nevertheless, no matter how many precautions we take on the windswept plains and other areas of Colorado, dust is a perpetual part of life on this arid landscape.

I paint this picture because many Coloradans are concerned that the implementation of a more stringent standard will have negative implications on rural communities and businesses. They are concerned that EPA regulations will lead to state implementation of a revised standard that may require them to pave gravel and dirt roads or use scarce water resources to spray roads and dirt lots. At a time when rural Colorado counties are facing increasingly tough economic realities, I ask that you take into account the unique aspects of rural life should you make a final determination on updating coarse PM standards.

Rural Coloradans are as concerned as anyone for their health and that of their neighbor and understand the benefits of dust mitigation practices that can improve crop yields. Still, it is important to note that there are stark differences between life in urban and rural areas. As I mentioned, it is important that the NAAQS are based on sound science and that we adequately protect human health and welfare; however, we cannot ignore the realities of rural life in any final decision to update the NAAQS. I look forward to learning of your progress in reaching out to rural America. Should you have any questions, please do not hesitate to contact me or my staff at 202-224-5941.

Sincerely,

Mark Udall

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 14 2011

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of March 11, 2011, in which you shared the concerns of Coloradans over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

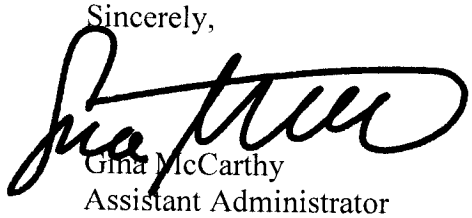
I appreciate the importance of NAAQS decisions to Colorado and other states, particularly to areas with agricultural communities, and I respect your and your constituents' perspectives and opinions. I also recognize the work that states have undertaken to improve air quality across the country. The NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture or rural roads). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and environmental effects of the pollutants for which they are set.

No final decisions have been made on revising the PM NAAQS. In fact, we have not yet released a formal proposal. Currently, we continue to develop options, including the option of retaining the current 24-hour coarse PM standard. To facilitate a better understanding of the potential impacts of PM NAAQS standards on agricultural and rural communities, EPA recently held six roundtable discussions around the country. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments will be fully considered as we proceed with our deliberations.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the scientific evidence as it pertains to health and environmental effects. Thus, the Agency is prohibited from considering costs in setting the NAAQS. But cost can be - and is - considered in developing the control strategies to meet the standards (i.e., during the implementation phase). Furthermore, I want to assure you that EPA does appreciate the importance of the decisions on the PM NAAQS to agricultural communities. We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may contact Josh Lewis in the Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,



Gina McCarthy
Assistant Administrator

Tomasello, Jennifer

From: Bogard, Lauren (Mark Udall) [Lauren_Bogard@MarkUdall.senate.gov]
Sent: Tuesday, November 02, 2010 1:49 PM
To: Tomasello, Jennifer
Subject: Constituent correspondence: (b) (6)

Hi Jennifer,

Thank you for letting me know you have not received the original correspondence from (b) (6). I tried to send it via our mail database, which we are still in the process of improving.

I have copied and pasted the correspondence here (see below). Please let me know if you have any further questions.

Thank you,

Lauren Bogard

Forwarded message:

(b) (6)

Dear Senator Udall,

I am very concerned about the use of processed free glutamate as a plant growth enhancer on crops. I am also concerned with the multiple ways to disguise the presence of processed free glutamate in foods. Labels have to specify MSG, but there are so many alternative names for what is essentially the same thing as MSG that are permitted, that someone like me that is sensitive to it needs to avoid essentially all preprocessed foods. It makes it hard for friends to have me over for dinner. It makes it hard for me to eat out at restaurants. In order to eat a preprocessed food I have to contact the manufacturer and see if a word such as "spices" or "seasonings" in the label is hiding a flavoring that is a processed free glutamate. Because I avoid the preprocessed foods, I rely on and enjoy a diet with lots of produce. If processed free glutamate is sprayed on crops, then I don't see a way for me to eat safely, short of growing all of my own food.
I have multiple sclerosis and have seen numerous direct correlations between exposure to MSG and development of my disease. My reading has supported the idea that it affects people with many other diseases. So I am not only concerned about the prevalence of processed free glutamate in America's food for my own health, but for the health of many others. I believe, through my own experiences, that many of our health costs could be reduced by eating less processed free glutamate. Since many people are consuming it unknowingly I would also like to see labeling that supports awareness rather than labeling that supports an ability to hide an ingredient that is dangerous for some, if not all people.
My three concerns summarized:
• Do not allow crops to be sprayed with processed free glutamate such as hydrolyzed fish protein.
• Require clearer, more truthful labeling so that MSG sensitive people are more readily aware that a product

2010 - 7837

contains an MSG related ingredient, such as a flavor enhancing processed free glutamate. See www.truthinlabeling.org/action.html.

• Include a label, similar to the allergy warnings already on labels, that specifies whether or not there are any forms of flavor enhancing processed free glutamate.

Thank you for helping make America's food healthier. Your family and friends will benefit.

(b) (6)

Lauren Bogard | Deputy Scheduler | U.S. Senator Mark E. Udall | SH-317 | Washington, DC 20510 | ☎ 202-224-5941
lauren_bogard@markudall.senate.gov
Follow Mark Udall: Website | Facebook | YouTube | Twitter
Sign up for Mark's Newsletter

(b) (6)

Dear (b)

Thank you for your letter of October 25, 2010, to Senator Mark Udall, concerning labeling for food products containing refined free glutamates. Senator Udall requested that we respond directly to you. The Environmental Protection Agency (EPA) has authority over the use of processed free glutamate as a plant growth enhancer on crops, and we have forwarded that portion of your request to EPA on your behalf.

The Food and Drug Administration (FDA) enforces the Federal Food, Drug, and Cosmetic Act (FD&C Act or the Act). Section 403 of the Act governs the labeling of foods. Section 403(i) requires that when a packaged food is made using two or more ingredients, each ingredient must be listed by its common or usual name on the label in descending order of predominance by weight.

The most common form of free glutamate added to food is in the form of salts of glutamic acid. The most common salt of glutamic acid is monosodium glutamate. As required by FDA regulations (Title 21, *Code of Federal Regulations*, section 101.22(h)(5)), when monosodium glutamate is used in a food it must be declared in the ingredient list by its common or usual name. Likewise, other salts of glutamic acid must also be declared by their common or usual name, e.g., monopotassium glutamate or monoammonium glutamate. Thus, when these ingredients are used, consumers must be informed that the product contains glutamate.

Free glutamate also occurs naturally in some foods and food substances that are used as ingredients in another food. When a food or food substance that naturally contains free glutamate is used in a food, the common or usual name of the ingredient will not identify the presence of free glutamate. In addition, ingredients such as spices and flavors that may naturally contain free glutamate are not required to disclose the presence of free glutamate, and may be declared simply as "spice" or "natural flavor" in the ingredient list.

Under section 403(a)(1) of the Act, a food is misbranded if its labeling is false or misleading in any particular. Section 201(n) of the Act states that labeling is misleading if it fails to reveal facts that are material in light of representations made or suggested in the labeling, or material with respect to consequences that may result from the use of the food to which labeling relates under conditions of use prescribed in labeling, or under such conditions of use as are customary or usual.

For FDA to require the declaration of the amount of refined free glutamate on food labels, FDA would have to make a finding in accordance with sections 403(a) and 201(n) of the

Act that the absence of the declaration of the amount of refined free glutamate on food labels misbrands the products by making the labeling misleading. To make such a finding FDA would need scientifically valid data showing that refined free glutamate presents a significant health hazard to the public. We are not aware of any such data or other information demonstrating that the amount of refined free glutamate is material information, as described in section 201(n) of the Act, that must be disclosed on the label. Therefore, FDA does not have a basis to require the declaration of the amount of free glutamate on food labels.

FDA contracted with the Federation of American Societies for Experimental Biology (FASEB) in 1992 to do a safety review of the effects of the use of MSG and hydrolyzed-protein products as food ingredients. FASEB reported its findings and conclusions in a report submitted to FDA on July 31, 1995, entitled "Analysis of Adverse Reactions to Monosodium Glutamate (MSG)." A copy of the Executive Summary may be obtained by contacting the American Society for Nutritional Sciences, Life Sciences Research Office, 9650 Rockville Pike, Bethesda, Maryland 2081, or by visiting their Web site at *www.lsro.org.*

In this report, FASEB concluded that there is sufficient documentation to define an acute, temporary, and self-limiting "MSG symptom complex" that includes such characteristic symptoms as a burning sensation of the back of the neck, forearms, and chest; facial pressure or tightness; chest pain; headache; nausea; upper body tingling and weakness, etc. (see page v of the Executive Summary). These symptoms were judged to be related to the amount of MSG consumed and whether the MSG was consumed with or without food. Specifically, FASEB concluded that oral ingestion of three or more grams of MSG without food could cause adverse reactions in certain otherwise healthy individuals. Most of the population, however, would not be harmed by the consumption of MSG, when eaten at customary levels.

Thank you again for contacting Senator Udall regarding this matter. We hope this information has been helpful to you.

Sincerely,

Kristina Harper
Supervisory Congressional
Affairs Specialist

cc: The Honorable Mark Udall
United States Senate
Washington, D.C. 20510
Attn: Lauren Bogard

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR - 8 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Mark Udall
United States Senator
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your correspondence of March 2, 2011, on behalf of your constituent, [redacted] (b) (6), regarding her concerns about monosodium glutamate (MSG) being sprayed on crops. Your letter was forwarded to my office because we are responsible for regulating pesticides in the United States.

There are no federally-registered active ingredients used to treat crops for human consumption containing any amounts of MSG that could potentially be harmful to human health. In 1998, EPA registered the plant growth regulator AuxiGro, which contains L-glutamic acid, a form of glutamate that differs both chemically and physically from monosodium glutamate. L-glutamic acid does not degrade into or become monosodium glutamate in this product.

L-glutamic acid is a naturally occurring substance in the body and in food; it functions as a neurotransmitter in the brain and is naturally metabolized by the body. EPA scientists conducted a very careful and thorough review of the scientific studies and product data supporting the AuxiGro registration to ensure that proper use of AuxiGro would not pose a potential risk to human health or to the environment. As part of this assessment, EPA established a tolerance exemption for residues of L-glutamic acid. This means that the Agency determined that there are no risks to human health from residues of L-glutamic acid that may remain on crops treated with this pesticide. AuxiGro is registered for use on certain fruits and vegetables, tree nuts, peanuts, grains, animal feed crops, lawn and turfgrasses, and ornamentals.

If [redacted] (b) (6) would like more information about L-glutamic acid, she may visit our biopesticides website at:
http://www.epa.gov/oppbppd1/biopesticides/ingredients/factsheets/factsheet_030802.htm.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at 202-566-2753.

Sincerely,

Stephen A. Owens
Assistant Administrator

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

January 31, 2011

Mr. David McIntosh
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Mr. McIntosh,

I am writing on behalf of (b) (6) who contacted my office requesting assistance. I am enclosing a copy of this constituent's letter.

I would appreciate your looking into this for me and taking any appropriate action consistent with applicable laws and regulations. Please respond to my Denver office at 999 18th Street #N1525, Denver, CO 80202, phone 303-650-7820, or fax 303-293-0507. As always, thank you for your assistance.

Sincerely,

Mark E. Udall
U.S. Senator

(b) (6)

January 13, 2011

Senator Mark Udall
Hart Office Building Suite SH-317
Washington, D.C. 20510

Dear Senator Udall

I write you because of your strong sense of environmental responsibility and the egregious misuse of government resources by a United States Environmental Protection Agency employee.

While I was traveling eastbound in I 70 on January 12 at about 12:30 PM a government vehicle [plate number G630814H] passed me at between 75 – 80 MPH, well beyond the posted limit of 65MPH. The driver was also tailgating the car in front of him. The vehicle is a grey Chevrolet Suburban.

The vehicle turned at the Frisco exit and stopped at a gas station near the Safeway store where I was going. I recorded the tags on the suburban at that time and asked the driver to identify himself and his agency. He said he was employed by the Environmental Protection Agency and said his name was (b) (6). When I asked him to spell his last name he refused and became obstreperous. At no time did he challenge my assertion about his driving.

I might add that he had a small brown dog in the front seat. An un-kenneled dog in an automobile is a clear danger to the public and inexcusable in the case of a government employee in a government vehicle. Moreover, if the dog belonged to (b) (6), rather than the United States, then (b) (6) was misusing government property and misappropriation of government property for one's own benefit is a serious matter.

In this time of serious economic conditions and with gasoline prices climbing once again, prudent driving practices are essential for all government employees, particularly those whose job it is to protect the environment. This is all the more important where the vehicle is one that gets notoriously poor gas mileage such as a Chevy Suburban. (b) (6) was alone, and one wonders why a more economically efficient vehicle could not have been used.

(b) (6)

I will appreciate an investigation of this matter and a response at your early opportunity.

Very truly yours,

AL-11-000-1960

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

MAR 1 2011

Ref: 8EPR-SA

Honorable Mark Udall
United States Senator
999 – 18th Street, Suite 1525
Denver, CO 80202

Dear Senator Udall:

Thank you for your letter of January 31, 2011, to EPA Headquarters on behalf of (b) (6). (b) (6) wrote to you regarding his observation of bad driving behavior by the operator of a federal government vehicle on Interstate 70 near Frisco, Colorado, and a concern about misuse of government resources. I have researched (b) (6)'s claims, and I appreciate this opportunity to provide the following information in response to his concerns.

The vehicle referenced in (b) (6)'s letter was a Government Services Administration (GSA) vehicle assigned to an EPA Superfund Technical Assessment and Response Team (START) contractor (URS Operating Services). It was being used by URS employee (b) (6) in the performance of duties under the EPA contract. (b) (6) was mobilizing with equipment to conduct air sampling at a site in Rifle, Colorado, at the direction of an EPA project manager.

Federal government regulations allow contractors performing work under cost-reimbursement contracts to be authorized to use GSA vehicles in the performance of that work. Those contractors are responsible for directing the use of the vehicles and maintaining insurance on them. To transport the equipment needed to perform the type of work that is required, and to be able to negotiate the mountain highways under all types of road conditions, the use of oversize vehicles such as the Chevy Suburban have been found to be necessary. We have also found that these leased GSA vehicles do provide a significant cost savings for equipment mobilization, and several of the vehicles use alternative fuel.

EPA notified the contractor of (b) (6)'s concerns; and URS is addressing the issues with (b) (6), including adherence to speed limits, following too closely and possible misuse of the vehicle by having a dog in the car. Upon investigation, URS provided the following response to EPA:

> "URS Operating Services does not condone speeding in any corporate, GSA, or privately owned vehicle. As a company we recognize that vehicle operation is the single most dangerous thing we do. As such, as a company we encourage safe vehicle operation. All staff are required to provide proof of a valid Colorado license to the office in order to be

authorized to use any vehicle. We conduct annual behavior based safety training, and all staff are required to take vehicle safety training, National Safety Council Defensive Driving Training, and Off Road Driving related to field work training. This is the first letter of this type we have received. (b) (6) has been counseled about the vehicle driving policy and the implications of speeding in a government vehicle and was asked to provide proof of his license. A copy of the complaint has been entered into his personnel file."

My staff and I believe the corrective action taken by the contractor is appropriate. The contract employee's alleged actions do not constitute a violation of the contract, and we do not feel they warrant further action by EPA. However, we will continue to insist that the contract employees follow safe driving practices and understand the implications and perceptions of their actions while in a government vehicle.

We appreciate your bringing this matter to our attention, and I hope this information will be helpful in your response to (b) (6). If EPA may provide anything further for you or your staff, please contact me or Sandy Fells, our Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

James B. Martin
Regional Administrator

Congress of the United States
Washington, DC 20515

August 24, 2010

Jim Martin
Regional Administrator
U. S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Col. Robert Ruch
Commander
U. S. Army Corps of Engineers, Omaha District
1616 Capitol Avenue
CENWO-PM-A, Suite 739
Omaha, Nebraska 68102-4901

Dear Mr. Martin and Colonel Ruch:

We write to encourage you to expeditiously resolve any issues between the U. S. Environmental Protection Agency (EPA), Region 8 and the U. S. Army Corps of Engineers (USACE), Omaha District regarding the Chatfield Reservoir Reallocation Feasibility Study and Environmental Impact Statement (FS/EIS). While we understand your agencies may have different views on how to prepare the environmental impact statement, we do not want any potential differences to unduly impede progress on a project to meet critical needs for agricultural and municipal water supplies along the Front Range and in northeastern Colorado.

Colorado faces a water supply crisis. The Colorado Water Conservation Board issued a report in November 2007 that estimates the water supply shortfall in 2030 for the South Platte River Basin to be 90,600 acre-feet. The Chatfield Reservoir Reallocation Project will not address the entire shortfall, but the preferred alternative of 20,600 additional acre-feet of storage will help to lessen it.

Chatfield Reservoir Reallocation brings together diverse and often competing interests in the pursuit of a common goal – increasing the storage capacity of an existing flood control reservoir, resulting in improved yields for central and northeastern Colorado. If issues between EPA, Region 8 and USACE, Omaha District cannot be resolved, we are concerned that an opportunity to secure additional water storage in an environmentally responsible manner in Colorado could be lost.

The Chatfield Reservoir Reallocation project will contribute to solving critical multi-use water supply needs along the South Platte River in northeastern Colorado and metropolitan Denver.

The project enjoys broad support from the state (including the governor and the state legislature) and municipal, agricultural, and environmental interests. It would:

- Make use of an existing water storage facility to meet additional water demands;
- Avoid the difficulties and expense of constructing a new water storage facility;
- Reduce cities' and special districts' dependence on non-renewable groundwater; and
- Provide for enhanced in-stream flows, resulting in environmental and recreational benefits, particularly in drought years, along the South Platte River in the 53-mile Denver river corridor from Chatfield Reservoir to below the Adams County-Weld County line.

While we understand that staff from your agencies have been working to come to an agreement regarding the FS/EIS, we are also concerned that the FS/EIS is approaching critical milestones. As a result, we encourage your agencies to reach an agreement in a timely manner. We also encourage full stakeholder participation in these discussions, including the Colorado Water Conservation Board and the Chatfield Reservoir Reallocation water providers.

Sincerely,

Mark Udall
U.S. Senator

Michael F. Bennet
U.S. Senator

John Salazar
Member of Congress

Betsy Markey
Member of Congress

Doug Lamborn
Member of Congress

Ed Perlmutter
Member of Congress

Mike Coffman
Member of Congress

Diana DeGette
Member of Congress

UNITES STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

AL-10-001-4547

Ref: EPR-EP

SEP 3 0 2010

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510-0608

Dear Senator Udall:

Thank you for writing on August 24, 2010, along with the other members of the Colorado congressional delegation, to EPA Regional Administrator Jim Martin and Colonel Robert Ruch, Commander of the Omaha District Corps of Engineers (Corps), regarding the Chatfield Reservoir Reallocation Feasibility Study and Environmental Impact Statement (FS/EIS). Because of his involvement with this project in his former position with the Colorado Department of Natural Resources (DNR), Mr. Martin is temporarily (through May 2011) recused from this project. I appreciate this opportunity to provide the following information on behalf of EPA to help address your concerns.

We understand the importance of the Chatfield Reservoir Reallocation project to Colorado and acknowledge the tremendous effort that has gone into the overall planning process. EPA is working to expedite resolution of our concerns regarding this project.

Specific to the Chatfield project, EPA managers and the EPA Region 8 Chatfield Team have been involved in a number of discussions with the Chatfield Stakeholders and Cooperators, including the Corps, Colorado DNR and Colorado Water Conservation Board representatives. In addition to formal meetings with the Stakeholders and regular Cooperators meetings, our Chatfield Team has engaged recently in several technical discussions with a small working group of the Chatfield Stakeholders. The intent of these technical meetings is to discuss and resolve the issues identified by EPA in our earlier comments on the draft FS/EIS. Finally, we are currently reviewing the preliminary draft FS/EIS materials recently distributed for Cooperators' review. The revisions and additional detail presented in these documents indicate considerable progress has been made in addressing many of the issues we have discussed.

We recognize your concern about the progress of the Chatfield project being impacted by EPA and the Corps' potential differences, and we have several activities underway with the Corps and other agencies to improve our collective efforts in reviewing proposed water supply projects in Colorado. In January 2010 we convened a meeting with the Corps, several other federal agency representatives and representatives from the DNR to begin a discussion on how we might improve our communication and work more effectively on current and future water supply projects. With the goal of improving our working relationship, EPA Region 8's National

Environmental Policy Act (NEPA) Program and Water Program managers and staff who work on water projects held a retreat this past summer with the Regulatory and Planning Programs managers from three Corps District offices. In addition, Corps and EPA program managers hold regular meetings in Denver to discuss our work and ensure our efforts are well coordinated.

We will continue to work with the Corps to clarify policy issues. We will also continue efforts by the EPA Region 8 Chatfield Team to actively work on the Chatfield Reservoir project-specific issues with the Corps, the Chatfield Stakeholders, the Cooperators group and the Colorado Water Conservation Board as these groups move toward finalizing and public review of the FS/EIS (expected late in 2010).

Again, thank you for your interest in EPA's involvement in the Chatfield project. EPA is committed to working through our issues as quickly as possible and with full stakeholder participation. If you or your staff have questions or need additional information, please contact me, or your staff may wish to contact Sandy Fells, our Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

Carol Rushin
Deputy Regional Administrator

cc: Colonel Robert Ruch, Commander
Omaha District Corps of Engineers

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000
202-224-2035

July 2, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are very concerned about the U.S. Environmental Protection Agency's (EPA) decision in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule to consider the emissions from biomass combustion the same as emissions from fossil fuels.

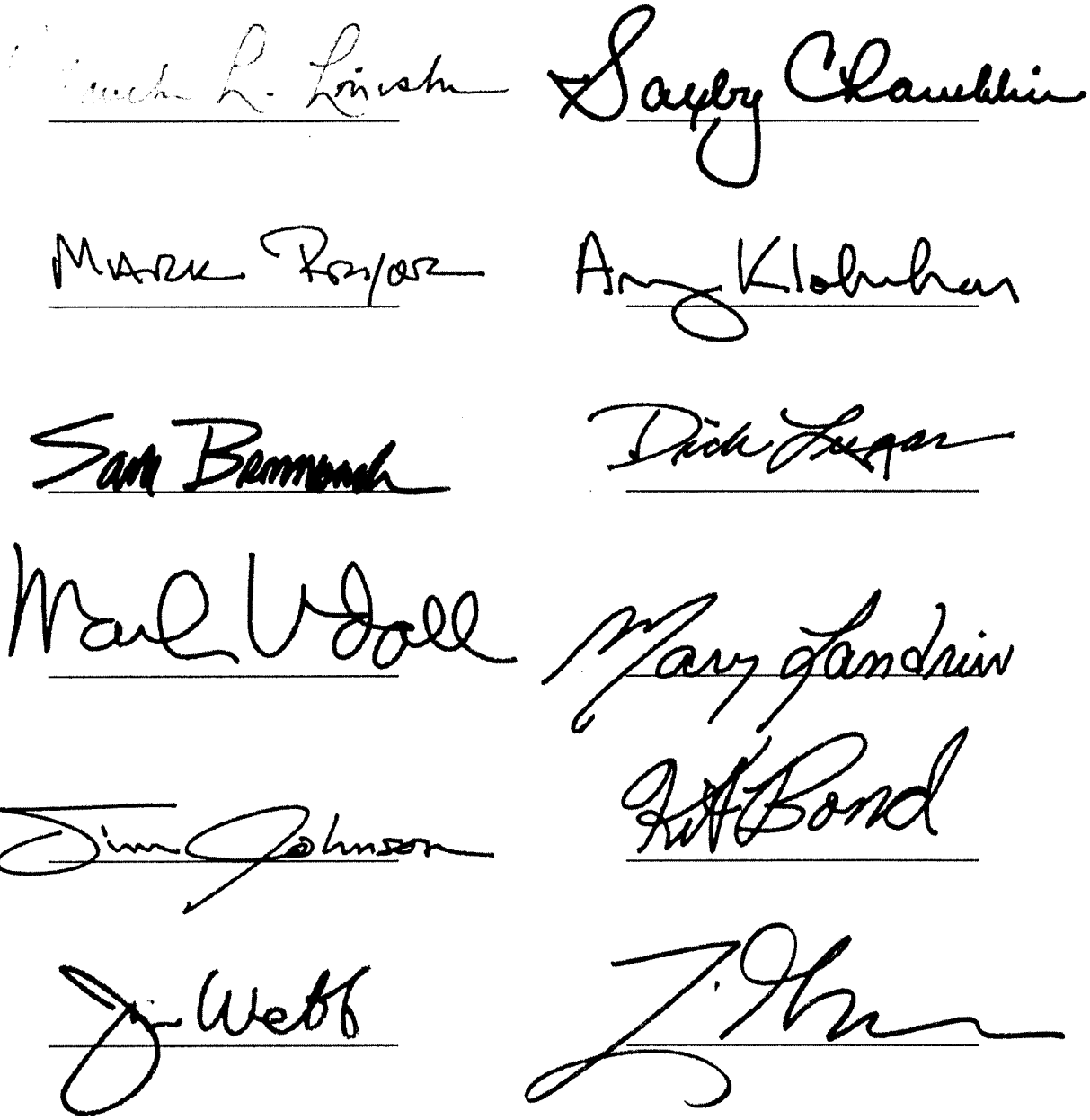
EPA's decision contradicts long-standing U.S. policy, as well as the agency's own proposed Tailoring Rule. Emissions from the combustion of biomass are not included in the Department of Energy's voluntary greenhouse gas (GHG) emissions reporting guidelines and neither are they required to be reported under EPA's GHG Reporting Rule. In the proposed Tailoring Rule, EPA proposed to calculate a source's GHG emissions based upon EPA's Inventory of U.S. GHG Emissions and Sinks. The GHG Inventory excludes biomass emissions.

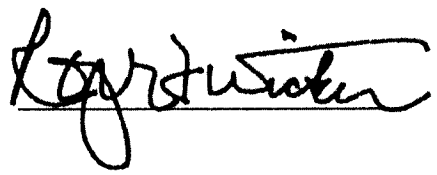
We think you would agree that renewable biomass should play a more significant role in our nation's energy policy. Unfortunately, the Tailoring Rule is discouraging the responsible development and utilization of renewable biomass. It has already forced numerous biomass energy projects into limbo. We are also concerned that it will impose new, unnecessary regulations on the current use of biomass for energy.

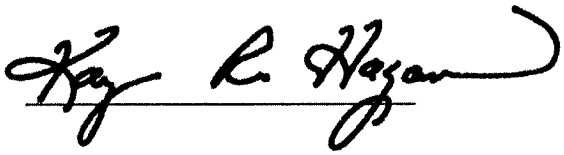
We appreciate that EPA intends to seek further comments on how to address biomass emissions under the PSD and Title V programs. With this rule, the agency has made a fundamental change in policy with little explanation. We strongly encourage you to reconsider this decision and immediately begin the process of seeking comments on it. In addition, we appreciate Secretary of Agriculture Tom Vilsack's commitment to working with EPA on this issue and encourage you to utilize the expertise of the U.S. Department of Agriculture.

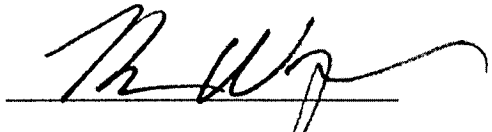
Please let us know as soon as possible the agency's plans on this matter. We appreciate your attention to this important issue.

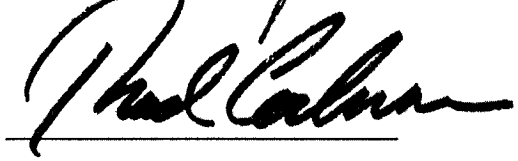
Sincerely,

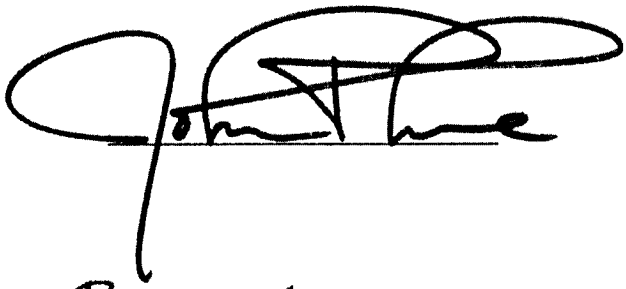


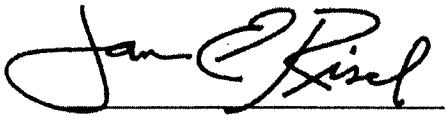


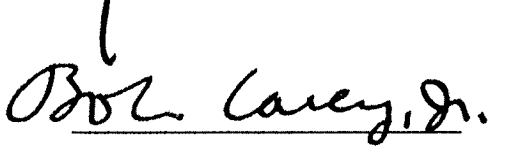


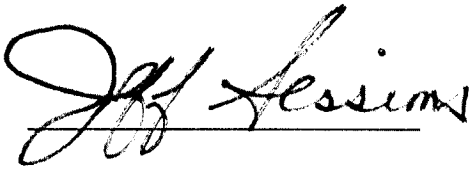


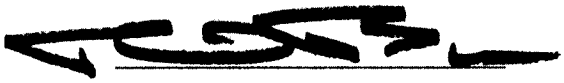


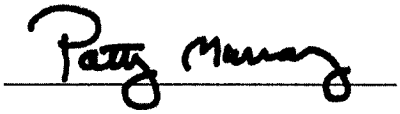


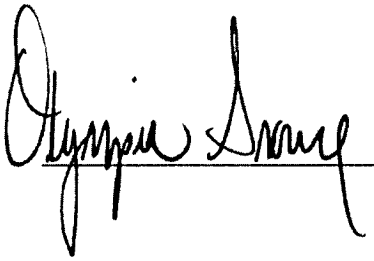


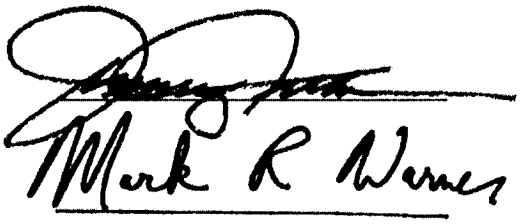


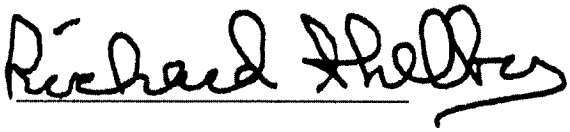


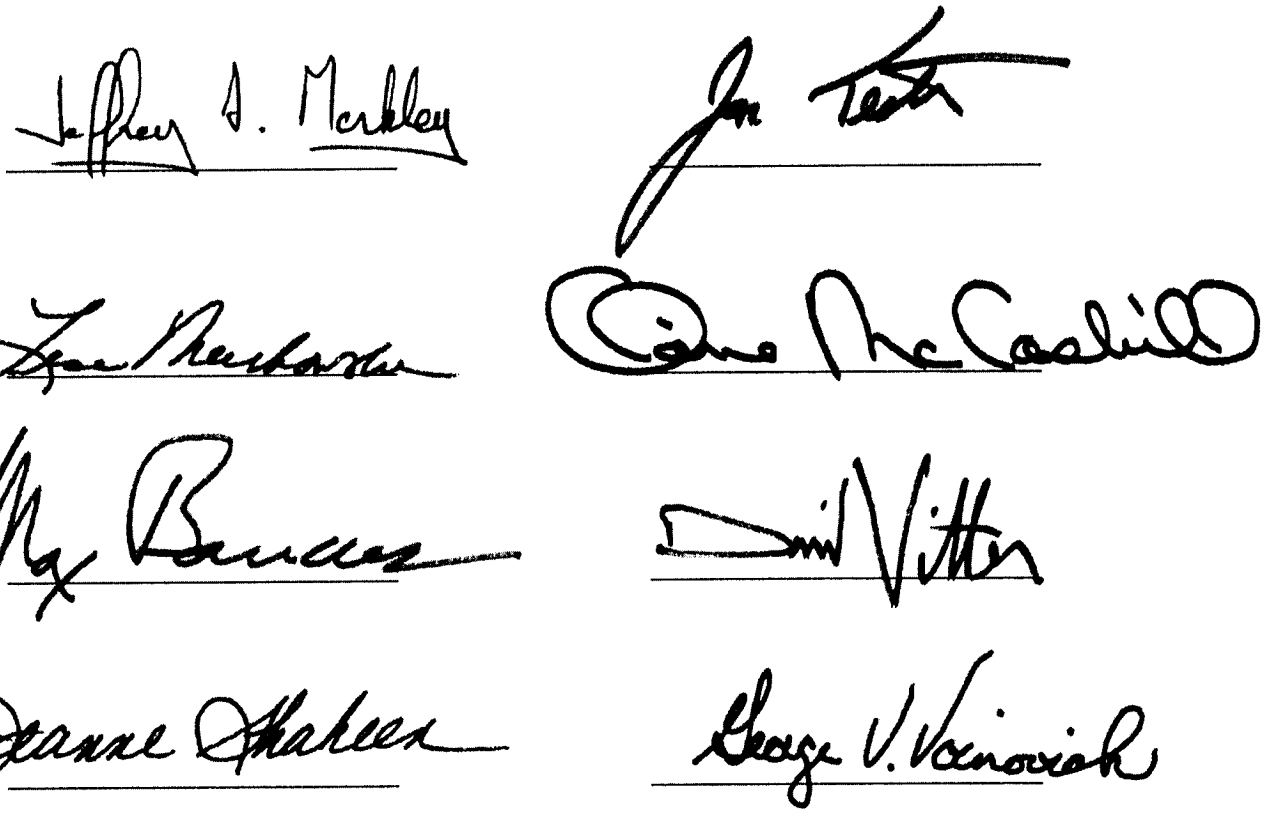












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 09 2010

OFFICE OF
AIR AND RADIATION

The Honorable Mark Udall
United States Senate
Washington, D.C. 20515

Dear Senator Udall:

Thank you for your July 2, 2010, letter to Administrator Jackson raising concerns regarding the treatment of biomass combustion emissions in the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (the "Tailoring Rule"). At her request, I am writing to respond.

I would like to address your comments about the treatment of biomass combustion emissions in the final Tailoring Rule and to assure you that we plan to further consider how the PSD and Title V permitting programs apply to these emissions.

As you noted, the final Tailoring Rule does not exclude biomass-derived carbon dioxide emissions from the calculations for determining PSD and Title V applicability for GHGs. To clarify a point made in your letter, the proposed Tailoring Rule also did not propose to exclude biomass emissions from the calculations for determining PSD and Title V applicability for GHGs. The proposed Tailoring Rule pointed to EPA's Inventory of Greenhouse Gas Emissions and Sinks for guidance on how to estimate a source's GHG emissions on a CO_2-equivalent basis using global warming potential (GWP) values[1]. This narrow reference to the use of GWP values for estimating GHG emissions was provided to offer consistent guidance on how to calculate these emissions and not as an indication, direct or implied, that biomass emissions would be excluded from permitting applicability merely by association with the national inventory.

We recognize the concerns you raise on the treatment of biomass combustion emissions for air permitting purposes. As stated in the final Tailoring Rule, we are mindful of the role that biomass or biogenic fuels and feedstocks could play in reducing anthropogenic GHG emissions, and we do not dispute observations that many federal and international rules and policies treat biogenic and fossil fuel sources of CO_2 emissions differently. Nevertheless, we explained that the legal basis for the Tailoring Rule, reflecting specifically the overwhelming permitting burdens that would be created under the statutory emissions thresholds, does not itself provide a rationale for excluding all emissions of CO_2 from combustion of a particular fuel, even a biogenic one.

[1] See 74 FR 55351, under the definition for 'carbon dioxide equivalent'.

The fact that in the Tailoring Rule EPA did not take final action one way or another concerning such an exclusion does not mean that EPA has decided that there is no basis for treating biomass CO_2 emissions differently from fossil fuel CO_2 emissions under the Clean Air Act's PSD and Title V programs. The Agency is committed to working with stakeholders to examine appropriate ways to treat biomass combustion emissions, and to assess the associated impacts on the development of policies and programs that recognize the potential for biomass to reduce overall GHG emissions and enhance U.S. energy security. Accordingly, today we issued a Call for Information[2] asking for stakeholder input on approaches to addressing GHG emissions from bioenergy and other biogenic sources, and the underlying science that should inform these approaches. Taking into account stakeholder feedback, we will examine how we might address such emissions under the PSD and Title V programs. We will move expeditiously on this topic over the next several months. As we do so, we will continue to work with key stakeholders and partners, including the U.S. Department of Agriculture, whose offices bring recognized expertise and critical perspectives to the issues at hand.

Thank you again for your continued interest in this issue. If you have any questions, please contact me, or your staff may contact Cheryl Mackay in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

Gina McCarthy
Assistant Administrator

[2] Posted online at http://www.epa.gov/climatechange/emissions/biogenic_emissions.html

MARK E. UDALL
COLORADO

MICHAEL F. BENNET
COLORADO

United States Senate

WASHINGTON, DC 20510

January 21, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing to recommend Jim Martin, (b) (6)
to be considered for the post of Regional Administrator for the Environmental Protection Agency, Region VIII. We believe each of these Coloradans are qualified for the job and deserve favorable consideration.

Jim Martin is the Executive Director of the Colorado Department of Public Health and Environment. In this position, he is both a member of Governor Ritter's cabinet and is responsible for a staff of 1,100 and a budget of over $280 million. He is the former Director of the Natural Resources Law Center at the University of Colorado School of Law.

(b) (6)

We are pleased to write this letter of support for Jim Martin, (b) (6) and hope you will give them every consideration for Regional Administrator for the Environmental Protection Agency, Region VIII. We have previously written letters for (b) (6) and hope that they, too, remain under consideration.

Sincerely,

Mark E. Udall

U.S. Senator

Michael F. Bennet

U.S. Senator

cc: Michael O'Neill, White House Office of Presidential Personnel

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

January 10, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

I am writing on behalf of (b) (6) who is interested in serving as the Administrator for Region 8 of the U.S. Environmental Protection Agency.

(b) (6)

I believe the Agency would benefit from her experience, energy and interest in producing long-term solutions in Region 8.

I am pleased to write this letter of support for (b) (6) and I hope you will give her every consideration as Administrator for Region 8 of the U.S. Environmental Protection Agency.

Sincerely,

Mark E. Udall
U.S. Senator

MARK UDALL
COLORADO

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(202) 224-5941

United States Senate

WASHINGTON, DC 20510

December 3, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

It has been brought to my attention that (b) (6) is interested in serving as the Administrator for Region 8 of the U.S. Environmental Protection Agency.

According to (b) (6) resume, he is currently serving as the (b) (6)

I ask that you please give (b) every consideration consistent with applicable laws and regulations for the position of Administrator for Region 8 of the U.S. Environmental Protection Agency.

Sincerely,

Mark E. Udall

Mark E. Udall
U.S. Senator

MARK UDALL
COLORADO

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WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

November 24, 2009

Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460-0001

Dear Administrator Jackson:

As you know, President Obama recently signed the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2010 (H.R. 2996) into law. This legislation included Davis-Bacon Act provisions to require that American workers be paid at the prevailing wage. This is important language that I believe helps ensure fair treatment of the American worker.

However, I understand that the U.S. Environmental Protection Agency (EPA) is uncertain how to interpret this particular requirement of the law. My staff has been in touch with the Senate Appropriations Committee and your staff to confirm reports that EPA might interpret the requirement to mean that monies distributed during the 2009 calendar year – and even in years prior to the bill's enactment – would be subject to Davis-Bacon Act requirements. Essentially, this would mean that contracts that have already been signed that do not have prevailing wage requirements may be put in jeopardy or subject to costly renegotiation. Apparently, EPA gave the states notice of this new requirement at a conference in Seattle, Washington, earlier this month.

I have heard from constituents and officials in Colorado who would be affected by this interpretation. They are considering halting important projects because of this interpretation's impact on existing contracts. This will likely remain a problem until EPA issues guidance for states like Colorado that depend on State Revolving Funds for critical water infrastructure projects.

As you are well aware, we are working on many levels to stabilize our economy, create new employment opportunities, and maintain existing jobs. I strongly urge you to work to see that existing projects and others that might be signed before the end of calendar year 2009 are not jeopardized by a potentially adverse ruling from the EPA's Office of General Counsel.

I look forward to working with you to resolve this matter. Please feel free to call on me or my staff if we can be of assistance.

Warm regards,

Mark Udall
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 1 9 2010

OFFICE OF
WATER

The Honorable Mark Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

Thank you for your letter of November 24, 2009, to Administrator Lisa P. Jackson of the U.S. Environmental Protection Agency (EPA), regarding the application of Davis-Bacon Act wage provisions to projects funded by the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) programs. Specifically, you express concern with how EPA planned to implement the requirement and its scope of application.

On October 30, 2009, P.L. 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," was enacted. This law provides appropriations for both the CWSRF and the DWSRF for Fiscal Year 2010. It includes the following language in Title II under the heading, "Administrative Provisions, Environmental Protection Agency":

> "For fiscal year 2010 the requirements of section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund as authorized by title VI of that Act (33 U.S.C. 1381 et seq.), or with assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both.
>
> For fiscal year 2010 the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12)."

In order to provide guidance for the implementation of this provision, I issued a memorandum on November 30, 2009, enclosed, entitled, "Application of Davis-Bacon Act Wage Requirements to Fiscal Year 2010 Clean Water State Revolving Fund and Drinking Water State Revolving Fund Assistance Agreements." The memorandum clearly states that the Davis-Bacon provision is applicable to all assistance agreements executed by a State SRF program on

or after October 30, 2009, and prior to October 1, 2010. While I understand the complexities and difficulties of applying such a requirement to all of the assistance agreements executed by the State Revolving Funds, the interpretation clearly follows the plain language of the Act. We do not believe that EPA has the discretion to interpret the language in any other manner. These provisions cannot simply be applied to an amount equal to the capitalization grant, as other federal cross-cutters are applied, because the statutory language, in this case, specifically applies the Davis-Bacon Act wage provisions to all assistance made from the funds.

In addition to the enclosed memorandum, I have asked my staff to prepare questions and answers to help States and assistance recipients apply this new requirement to projects that had not executed assistance agreements prior to October 30, 2009, but may have signed construction contracts or solicited for bids prior to that date. I hope to have that information out shortly.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

Peter S. Silva
Assistant Administrator

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 3 0 2009

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Application of Davis-Bacon Act Wage Requirements to Fiscal Year 2010 Clean Water State Revolving Fund and Drinking Water State Revolving Fund Assistance Agreements

FROM: Peter S. Silva
Assistant Administrator

TO: Water Management Division Directors
Regions I - X

On October 30, 2009, P.L. 111-88, "Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," was enacted. This law provides appropriations for both the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) for Fiscal Year 2010, while adding new requirements to these already existing programs. One new requirement, and the focus of this memorandum, requires the application of Davis-Bacon Act requirements.

P.L. 111-88 includes the following language in Title II under the heading, "Administrative Provisions, Environmental Protection Agency,"

> For fiscal year 2010 the requirements of section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund as authorized by title VI of that Act (33 U.S.C. 1381 et seq.), or with assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both.
>
> For fiscal year 2010 the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12).

In order to comply with this provision, States must include in all assistance agreements, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, executed on or after October 30, 2009 (date of enactment of P.L. 111-88), and prior to

October 1, 2010, for the construction of treatment works under the CWSRF or for any construction under the DWSRF, a provision requiring the application of Davis-Bacon Act requirements for the entirety of the construction activities financed by the assistance agreement through completion of construction, no matter when construction commences.

Application of the Davis-Bacon Act requirements extend not only to assistance agreements funded with Fiscal Year 2010 appropriations, but to all assistance agreements executed on or after October 30, 2009 and prior to October 1, 2010, whether the source of the funding is prior year's appropriations, state match, bond proceeds, interest earnings, principal repayments, or any other source of funding so long as the project is financed by an SRF assistance agreement. If a project began construction prior to October 30, 2009, but is financed or refinanced through an assistance agreement executed on or after October 30, 2009 and prior to October 1, 2010, Davis-Bacon Act requirements will apply to all construction that occurs on or after October 30, 2009, through completion of construction.

Notably, there is no application of the Davis-Bacon Act requirements where such a refinancing occurs for a project that has completed construction prior to October 30, 2009. This provision does not apply to any project for which an assistance agreement was executed prior to October 30, 2009, no matter when construction occurs.

Further information may be provided in the form of "Questions and Answers" if necessary.

We fully understand the complexity of this provision and the difficulties involved in its application. If you have any question, please contact us, or have your staff contact Jordan Dorfman, Attorney-Advisor, State Revolving Fund Branch, Municipal Support Division, at (202) 564-0614, or Philip Metzger, Attorney-Advisor, Infrastructure Branch, Drinking Water Protection Division, at (202) 564-3776.

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

November 17, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

I am writing on behalf of (b) (6) , who is interested in serving as the Administrator for Region 8 of the U.S. Environmental Protection Agency.

(b) (6) would, in my opinion, be an excellent regional administrator.

(b) (6)

I believe the administration would benefit from his experience, energy and strong interest in serving as Administrator for Region 8.

I am pleased to write this letter of support for (b) (6) and I hope you will give him every consideration. If you have any questions please feel free to contact me at (202) 224-5941.

Sincerely,

Mark E. Udall
U.S. Senator

MARK UDALL
COLORADO

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WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

November 17, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

I am writing on behalf of former (b) (6) n, who is interested in serving as the Administrator for Region 8 of the U.S. Environmental Protection Agency.

(b) (6)

I believe the new administration would benefit from her experience, energy and strong interest in serving as Administrator for Region 8.

I am pleased to write this letter of support for (b) (6) and hope you will give her every consideration as you interview candidates for the job of Administrator for Region 8. If you have any questions please feel free to contact me at (202) 224-5941.

Sincerely,

Mark E. Udall
U.S. Senator

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

November 3, 2009

Secretary Steven Chu
U.S. Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20024

Administrator Lisa Jackson
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20024

Dear Secretary Chu and Administrator Jackson:

I am writing with regards to some concerns I have heard about with the Department of Energy's ongoing weatherization program and the health and safety of the residents whose homes are being weatherized.

Provisions of the American Recovery and Reinvestment Act provide significant additional funding for the Department of Energy's weatherization program, which I strongly support. As you know, the weatherization program helps low income families permanently reduce their utility bills through energy efficiency improvements in their homes. It has the added benefit of creating economic development in these communities as new jobs are created to make these improvements.

My understanding of the weatherization process is that it is not expected to increase radon levels, but the potential impacts have not been checked for many years. Efforts to seal homes to improve energy efficiency may have the unintended effect of trapping radon inside, which would result in increased health risks for those who live there. In Colorado especially, high indoor radon levels are a common concern in many communities. I believe it is important to verify that this critical program is not unintentionally increasing health risks. I understand that the EPA is currently soliciting applications for programs to reduce indoor pollutants, and that the DOE is about to undergo a review of the weatherization program. Furthermore, it is my understanding that current DOE guidelines prohibit the use of weatherization funds for radon remediation, even though it may be prudent to consider correcting both problems at the same time.

I encourage the Department of Energy to work with the EPA to determine whether there is a connection between the weatherization program and increased indoor air pollution, including radon. If there is, I urge you to examine ways to address this issue as the weatherization process continues. I believe that we have a unique opportunity to assess these issues and, if necessary, rapidly implement solutions that will simultaneously lower energy costs and decrease health risks for low-income households. Please let me know what steps you are taking to address these issues.

Thank you for taking the time to look into this matter.

Sincerely,

Mark Udall

March 3, 2010

The Honorable Mark Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

Thank you for your November 3, 2009, letter regarding your concern for the health and safety of people whose homes are being weatherized through the U.S. Department of Energy's (DOE) weatherization programs. We appreciate your support for energy efficiency and your commitment that weatherization is performed in a way that is uncompromising in its protection of residents.

The U.S. Environmental Protection Agency (EPA), DOE, the U.S. Department of Housing and Urban Development (HUD), the Centers for Disease Control and Prevention (CDC) and interested non-Federal stakeholders are working together to address the overlap between indoor air quality, weatherization and retrofits for energy efficiency. These are interdisciplinary issues that are affected by multiple agencies' programs. Because of this fact, it is critical that our agencies collaborate to deliver programs that adequately protect public health and safety, while also moving the Nation towards a more energy-independent, cleaner, and greener economy.

DOE and EPA concur with your statement that activities to improve home energy efficiency, including weatherization, should not adversely affect a home's indoor environment or occupant health. DOE will make certain that weatherization practices that change the radon level in homes are fully understood and do no harm. When necessary, DOE will modify its practices to confirm adequate protection of the American public's health and safety.

You suggested that DOE take the opportunity to update radon studies through its forthcoming weatherization program evaluation. To address your recommendation, DOE has requested that the program evaluation's scope of work be expanded to include a study of weatherization's effect on indoor radon. You correctly noted that it has been several years since DOE studied weatherization's effect on radon levels. It is timely and prudent that we re-evaluate the weatherization-radiation relationship.

The "do-no-harm" principle is fundamental to the DOE weatherization programs. With unprecedented levels of access to residential home interiors—enabled largely through the Recovery Act's expansion of DOE's Weatherization Assistance Program—we are reaching more American households than ever before. We have a unique opportunity to simultaneously improve the energy efficiency and the healthiness of homes.

As you are probably aware, significant policy and financial barriers exist for aligning government programs that serve energy- and health-related needs and are administered by separate agencies. To tackle the challenges and devise comprehensive solutions for healthy weatherization, DOE, EPA, HUD, CDC and others are working together in the following ways:

- **Federal Inter-Agency Healthy Homes Work Group:** This Work Group—with representation that includes HUD, CDC, EPA, DOE, and several other federal agencies —was formed to establish and champion a comprehensive strategy to promote healthy homes for all citizens. An important part of the Work Group's mission is to facilitate interagency collaboration and consistently incorporate healthy homes principles into federally operated and funded programs. The Work Group recognizes the importance of ensuring that retrofits for energy efficiency are performed in ways that do not disturb existing hazards (e.g. lead, fibrous insulation, etc.) or otherwise result in impaired indoor air quality. The Work Group is working to devise creative policy solutions that encourage optimum energy efficiency along with integrated healthy homes considerations.

- **Expansion of Upcoming DOE Weatherization Program Evaluation:** As stated previously, DOE has requested an expansion to the scope of work for its upcoming Weatherization Program Evaluation to include a study of the impact of weatherization on radon levels in homes.

- **Federal Interagency Committee on Indoor Air Quality (CIAQ):** EPA chairs a federal interagency Committee on Indoor Air Quality (CIAQ). DOE will assign a representative to serve on the committee for topics relating to weatherization activities.

We look forward to sharing our findings, recommendations and future activities with you, as the collaborative initiatives described above proceed. Please contact us at any time for an update.

Department of Energy:
Claire Broido Johnson, Acting Program Manager
Office of Weatherization and Intergovernmental Programs
P: 202.586.2887 / E: Claire.Johnson@hq.doe.gov

Environmental Protection Agency:
David Rowson, Acting Director

Indoor Environments Division
P: 202.564.9444 / E: Rowson.David@epa.gov

We appreciate your leadership on this issue. You recognize, as we do, that this is a unique opportunity to improve the energy efficiency and health of our nation's homes. Through deliberate action, improved coordination and integrated programs we can deliver "healthy weatherization" services to Americans. This approach will reduce energy costs for homeowners, grow green jobs, maintain or improve the healthiness of homes, and promote a more energy efficient economy.

Again, thank you for your letter. If you have further questions, please contact us, or staff may call Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095 or Martha Oliver in DOE's Office of Congressional and Intergovernmental Affairs at (202) 586-2229.

Sincerely,

Steven Chu, Secretary
Department of Energy

Lisa Jackson, Administrator
Environmental Protection Agency

United States Senate

WASHINGTON, DC 20510

October 16, 2009

The Honorable Lisa Perez Jackson
Administrator
The United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue Room 3000
Washington, D.C. 20460

Dear Administrator Jackson:

We write regarding the Environmental Protection Agency's (the Agency) May 15, 2009 final rule published in the Federal Register revoking all tolerances for *carbofuran* effective December 31, 2009, and the Agency's March 18, 2009 decision withdrawing the registration of this chemical.

While we do not take any position on the Agency's underlying determinations, we do want to relay the perspective of Coloradans who have an interest in the Agency's decision-making process. A number of Colorado growers have expressed to us their concerns regarding production challenges that may result if all food tolerances for *carbofuran* are immediately revoked. We ask that you give due consideration to the pending petition for a hearing on the EPA's May 15th decision, ID number: EPA-HQ-OPP-2005-0162-0578.

While we understand that the Agency is taking steps to manage the risks from this pesticide's use in order to protect our environment and the public's health, we urge you to keep in mind the on-the-ground constraints and economic realities involved in making the changes that the Agency has stipulated.

Thank you for your consideration and we look forward to being informed of your decision.

Sincerely,

Michael F. Bennet
U.S. Senator

Mark Udall
U.S. Senator

U.S. Senator
Mark Udall
Colorado
317 Hart Senate Office Building
Washington, DC 20510

P: 202-224-5941
F: 202-224-6471
http://markudall.senate.gov

To: Administrator Lisa Jackson
c/o Joyce Frank
~~202-501-1519~~

From: Mark Udall & Michael Bennet
202224 5941 Simon Tafoya

Date: Oct 19, 2009

Regarding: Carbofuran Revocation

From:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 2 2 2009

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear Senator Udall:

Thank you for your letter of October 16, 2009, to Administrator Lisa P. Jackson regarding the U.S. Environmental Protection Agency's (EPA's) decision to revoke tolerances for the pesticide carbofuran. Administrator Jackson asked me to respond on behalf of the Agency since my office is responsible for the regulation of pesticides.

The Agency has been working on complex issues related to the risks from the use of carbofuran for several years. We, therefore, appreciate your concerns and we take seriously our mission to protect human health and the environment. The Agency is required to consider exposure to the most vulnerable populations from both food and drinking water when making a safety finding for any pesticide. In every analysis that EPA has conducted to date, carbofuran's dietary risks exceed safe levels. In the recent tolerance revocation, EPA's analyses showed that food plus drinking water exposures from the uses the registrant sought to retain clearly do not meet the safety standards required by current law.

When EPA issued the Reregistration Eligibility Decision for carbofuran in 2006, we stated that all domestic uses of carbofuran were ineligible for Reregistration. We have been following the required regulatory process to achieve cancellation of carbofuran and revocation of the associated tolerances for the past three years.

EPA shares the concern that farmers not be subject to unfair or unwarranted constraints or economic hardship as a result of the Agency's decision to protect children and others from dietary risks from carbofuran. We have taken a number of measures in response to these concerns to ensure that growers will not be unfairly penalized by the Agency's action. The tolerance revocations were proposed in July 2008 and were finalized in May 2009 with an effective expiration date of December 31, 2009, to provide growers with sufficient notice and time to use up stocks of carbofuran that they had on hand for the 2009 growing season. Based on the very public process and press coverage since 2006, EPA does not expect dealers and growers to be caught off guard or to have large stocks of unused carbofuran product. EPA has also had discussions with the U.S. Food and Drug Administration (FDA), and will continue to coordinate with FDA to ensure that food that was treated before the effective date of the tolerance revocations will continue to be allowed to be sold.

EPA also conducted small business economic analyses and benefits analyses for the crops on which carbofuran is used and provided those for public comment in both the Registration Eligibility Decision (August 2006) and the proposed Notice of Intent to Cancel (January 2008). Those analyses indicated carbofuran is used on a small percentage of U.S. crops and that there are safe and effective alternatives to carbofuran on the market.

Your letter also mentions the March 2009 cancellation order for carbofuran. This cancellation order was the result of the company requesting cancellation of certain uses and the consolidation of certain Special Local Needs Registrations into the federal section 3 registrations. At the registrant's request, these cancellations were factored into the risk assessment conducted for the final tolerance revocation; however, the aggregate dietary exposures from the remaining uses still caused risks of concern to infants and children.

On June 30, 2009, the registrant and the national associations for growers of corn, sunflowers, and potatoes filed objections and requested an administrative hearing on EPA's final tolerance revocations for carbofuran. Your letter requests that we give "due consideration" to this hearing request. The requirements for granting or denying a hearing are clear under Federal Food, Drug, and Cosmetic Act section 408 and are laid out in detail in 40 CFR 178.32(b)(2). EPA thoroughly reviewed all submissions and determined that a hearing was not warranted because the petitioners did not (1) raise any material issues of fact, only policy or legal issues or issues that would not be determinative, or (2) offer any proof that the proposed changes to the label would sufficiently mitigate dietary exposure risks to carbofuran. The denial order that discusses the Agency's reasoning is available on the Internet (http://www.epa.gov/pesticides/reregistration/carbofuran/carbofuran_noic.htm) and was published in the Federal Register later on November 18, 2009. The registrant has the right to challenge the tolerance revocation in the U.S. Court of Appeals within 60 days.

EPA is committed to ensuring that to the greatest extent possible actions taken to protect human health and the environment do not jeopardize U.S. agriculture. Again, thank you for your letter and your interest in this area. If you have further questions, please contact me, or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Affairs at 202-564-0260.

Sincerely,

Stephen A. Owens
Assistant Administrator

UNITED STATES SENATOR-NORTH DAKOTA

KENT CONRAD

530 Hart Senate Office Building
Washington, DC 20510
(202) 224-2043
Fax: (202) 224-7776

DATE: 7-1-09

TO: Brenda

FAX #: 501 1519

FR: Joe McGarvey 224-0839

NUMBER OF PAGES (including cover): 5

COMMENTS:

Attached is a copy of a letter From Sen. Conrad and 24 other senators. Sen. Mark Udall was omitted From the letter - could you please include him in any response EPA may send?

With thanks

Joe McGarvey

United States Senate

WASHINGTON, DC 20510

June 26, 2009

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We understand the EPA is evaluating its regulatory options for the management of coal combustion byproducts ("CCBs") and plans to propose federal management standards for CCBs by the end of the year. This issue involves an important component of the nation's overall energy policy. EPA's decision could affect electricity costs from coal-fired plants, the continued viability of CCB beneficial use practices (which play a significant role in the reduction of greenhouse gases), and the ability of certain power plants to remain in service. It is important, therefore, that the final rule reflect a balanced approach to ensure the cost-effective management of CCBs that is protective of human health and the environment, while also continuing to promote and encourage CCB beneficial use. As explained below, we believe the federal regulation of CCBs pursuant to RCRA's Subtitle D non-hazardous waste authority is the most appropriate option for meeting these important goals.

As part of its evaluation of this issue, EPA has wisely sought input from the States regarding their preferences with respect to the three regulatory options under consideration: (1) federal regulation of CCBs as non-hazardous solid waste under RCRA Subtitle D, (2) regulation as hazardous wastes under RCRA Subtitle C, and (3) a hybrid approach where CCBs would be regulated as hazardous wastes with an exception from hazardous waste regulation for CCBs that are managed in conformance with specified standards.

We understand, thus far, approximately twenty (20) states, in addition to the Association of State and Territorial Solid Waste Management Officials, have responded to EPA's request for input on this issue and every State has taken the position that the best management option for regulating CCBs is pursuant to RCRA Subtitle D. The States effectively argue they have the regulatory infrastructure in place to ensure the safe management of CCBs under a Subtitle D program and, equally important, make clear that regulating CCBs as hazardous waste would be environmentally counter-productive because it would effectively end the beneficial use of CCBs. For the same reasons, the Environmental Council of States ("ECOS") has issued a declaration expressly arguing against the regulation of CCBs as hazardous waste under RCRA.

We respectfully suggest the unanimous position of informed State agencies and associations should not be ignored as EPA evaluates its regulatory options for CCBs. Among other things, the Bevill Amendment to RCRA directs that, as part of its decision-making process for CCBs, EPA will consult with the States "with a view towards avoiding duplication of effort."

RCRA 8002(n). The States have made clear regulating CCBs under RCRA Subtitle C would result in regulatory overkill and effectively end CCB beneficial uses.

The States' position is not surprising since it reflects EPA's own conclusions on four separate occasions that CCBs do not warrant hazardous waste regulation. EPA has issued two formal reports to Congress, in 1988 and 1999, concluding CCBs do not warrant hazardous regulation. Most recently, in 2000, EPA again determined the better approach for regulating CCBs is "to develop national [non-hazardous waste] regulations under subtitle D rather than [hazardous waste regulations under] subtitle C." 65 Fed. Reg. 32214, 32221 (May 22, 2000). In reaching this decision, EPA agreed with the States that "the regulatory infrastructure is generally in place at the state level to ensure adequate management of these wastes" and regulating CCBs as hazardous "would adversely impact [CCB] beneficial use." *Id.* at 32217, 32232.

As we know you appreciate, the impact on CCB beneficial use is another statutory consideration that EPA must consider in evaluating its regulatory options for CCBs. *See* RCRA §8002(n)(8); 65 Fed. Reg. at 32232. Both EPA and the States have recognized that regulating CCBs as hazardous waste would have an adverse impact on CCB beneficial use. As EPA reasoned in selecting the Subtitle D approach in its 2000 regulatory determination, it did not want "to place any unnecessary barriers on the beneficial uses of [CCBs], because they conserve natural resources, reduce disposal costs and reduce the total amount of wastes destined for disposal." *Id.* at 32232.

In addition to promoting increased CCB beneficial use, a Subtitle D approach appears to be protective of human health and the environment, as EPA has already concluded that State programs are in place to effectively regulate CCBs. *Id.* at 32217. A 2006 EPA/DOE report reinforces this conclusion by confirming the recent development of even more robust state controls for CCBs.

In light of the recent ash spill disaster at the Tennessee Valley Authority's Kingston facility, we certainly understand the EPA raising concerns about the handling and storage of CCBs. We believe appropriate precautions should be taken by all responsible operators, that parties who have violated regulations should be held accountable, and the public health and welfare should be protected. However, in light of how states and the EPA have historically approached the regulation of CCBs, we respectfully urge the EPA to work closely with the States in deliberating regulations for the best management of coal combustion byproducts and give thoughtful consideration to developing a performance-based federal program for CCBs under RCRA's Subtitle D non-hazardous waste authority.

Thank you for your consideration of our views.

Sincerely,

Kent Conrad
United States Senate

Sam Brownback
United States Senate

Byron Dorgan
United States Senate

George Voinovich
United States Senate

Orrin G. Hatch
United States Senate

James M. Inhofe
United States Senate

Lamar Alexander
United States Senate

Saxby Chambliss
United States Senate

David Vitter
United States Senate

Claire McCaskill
United States Senate

James E. Risch
United States Senate

Jim Bunning
United States Senate

Mary L. Landrieu
United States Senate

Barbara A. Mikulski
United States Senate

Evan Bayh
United States Senate

Michael B. Enzi
United States Senate

Bob Corker
United States Senate

John Thune
United States Senate

Thad Cochran
United States Senate

John Barrasso
United States Senate

Christopher S. Bond
United States Senate

Blanche L. Lincoln
United States Senate

Mark L. Pryor
United States Senate

Johnny Isakson
United States Senate

Amy Klobuchar
United States Senate

Senator Mark Udall's signature omitted from original letter - please include Sen. M. Udall in any response

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 3 0 2009

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Mark Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

Thank you for your letter of June 26, 2009, expressing your interest in the U.S. Environmental Protection Agency's (EPA) pending rulemaking governing the management of coal combustion residuals (CCR). In your letter, you urged the agency to work closely with the states as we consider options to safely manage CCR.

EPA intends to issue a proposal before the end of this calendar year. EPA has been meeting with state associations to understand their member's perspectives, and to generally share the options under consideration by EPA. We will include your letter, as well as those EPA has received from the states, in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

Mathy Stanislaus
Assistant Administrator

MARK UDALL
COLORADO

SUITE 6D-B40E
DIRKSEN BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

March 27, 2009

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

I am writing to follow up on my letter (with Senator Michael Bennet and Representative John Salazar) to you and our phone conversation regarding the application of American Recovery and Reinvestment Act (ARRA) funding to help construct a water treatment plant at the Summitville Mine Superfund Site in Colorado.

As part of that effort, I wanted to bring to the Environmental Protection Agency's attention a front page story that appeared this past Sunday regarding water quality concerns for some communities and regions of the state. I am sure that you share my concern over the deteriorating condition of some of our water infrastructure in the nation and in Colorado as highlighted by this story. I hope to work with you and the Congress on these issues.

Of particular interest regarding the Summitville issue is the focus in this story on the water quality and infrastructure problems facing the City of Alamosa. As you can see by this story, this region of our state has traditionally been one of the more economically disadvantaged. As a result, Alamosa and other communities in the San Luis Valley typically do not have the resources they need to address aging infrastructure and water quality concerns. This is all the more difficult when a failed mining operation at Summitville, upstream of the San Luis Valley and Alamosa, adds to the water quality concerns in this region.

I hope this additional information will help as the EPA considers how to allocate the ARRA funding and can be useful in its deliberations and decisions related to Summitville. I want to thank you for giving me time to visit with you about this issue and I appreciate EPA's willingness to seriously consider this request consistent with all applicable laws and regulations.

Sincerely,

Mark Udall

denver and the west

Hazards in the water

By David Olinger
The Denver Post
Posted: 03/22/2009 12:30:00 AM MDT
Updated: 03/22/2009 02:03:04 PM MDT

More than 150,000 people in Colorado drank from water supplies last year that violated public health standards.

Nearly all these problems occurred in small communities and water districts, which have been struggling with new federal rules and aging distribution systems.

In 2008, a salmonella epidemic hit a water supply with decaying infrastructure, squirrels found their way into another drinking-water storage tank and died, and live birds fouled another. In one town, people defiantly drank unfiltered water from a stream despite state orders to boil their water since last spring.

Year by year, the price to fix Colorado's drinking-water infrastructure keeps climbing. Pending requests for state help to improve water systems have

ballooned from $800 million to $1.3 billion since 2005. Forty-eight of these projects, totaling $143 million, would treat water supplies posing acute or chronic health hazards.

Louise Malouff's 6-year-old son was among the children treated in emergency rooms after a pollutant — salmonella bacteria — invaded Alamosa's water supply.

As they waited for hours, he kept vomiting and passing bloody diarrhea. "He was lying on the floor like a puppy," she said. "He asked me, 'Mom, if I'm losing all my blood, am I going to die?' It just broke my heart."

Some infrastructure money in the $787 billion federal economic-stimulus bill is coming to aid troubled Colorado water systems, but it's not nearly enough to assure safe drinking water statewide.

Colorado expects $32 million in stimulus money to help finance drinking-water projects, about 2.5 percent of the total sought by hundreds of cities, towns and districts.

"The amount of money available pales in comparison to the need," said Steve Gunderson, the state's water- quality director.

"A nick in the need," said Kevin Bommer, a Colorado Municipal League policy advocate. The federal funds "will help some communities and some projects that would not have gotten any assistance for some time. They will not solve the infrastructure problems."

This crisis is largely invisible. People typically notice infrastructure systems only if they fail.

"It's out of sight, out of mind," said Tom Curtis, deputy executive director of the American Water Works Association. "You turn on the tap, and water comes out. You flush, and it goes away."

Last year, the Alamosa water system gained national attention.

More than 400 people were sickened, and one man died, during its salmonella epidemic. It was the worst drinking-water disease outbreak nationwide since 2004, according to the federal Centers for Disease Control and Prevention.

Investigators suspect crumbling infrastructure, including a badly cracked water-storage tank, may have let a salmonella strain found in animal feces poison the water. When the epidemic struck, nobody had inspected the inside of the tank in 11 years. Six inches of sediment lay in the bottom. Bird droppings covered the roof of a nearby water tower that was missing bolts.

The salmonella outbreak was Colorado's worst infrastructure crisis last year. But it was by no means the only sign of trouble with drinking-water supplies.

Public health risks increase

In the past two years, the Colorado Department of Public Health and Environment has dealt with 120 "acute" drinking-water incidents that posed potential public health risks — up from 68 during the previous two years.

Last year there were 62 state orders to boil tap water or drink bottled water. Nearly half were caused by broken water mains or other maintenance issues.

Two water districts were ordered to boil water four times in one year, and the town of Rye has been told to boil its drinking water since May.

The health department says the growing number of acute incidents may reflect better reporting from local water systems, not a growing health risk. But it acknowledges that its current staff is insufficient to keep up with the combined effects of aging infrastructure, stricter federal rules and population growth.

"Currently, there is a backlog of about 120 community public-water systems with unresolved violations, and resources have allowed only one such system to be referred for enforcement," the Water Quality Control Division recently reported to the state legislature. "This type of performance will not be accepted under the new rules."

Ron Falco, Colorado's drinking-water program manager, said most of those inspection-based violations — inadequate maintenance or incorrect water sampling, for example — are not directly health-related. But new U.S. Environmental Protection Agency rules will require stricter state oversight, and there is a risk the agency "would find we're not doing an adequate job" of protecting water supplies, he said.

Overall, 97 percent of Colorado residents drink water that meets all health standards, Falco said. That's well above the EPA target of 90 percent and above the national average.

But that still meant 156,498 people in Colorado drank from water supplies with "health-based violations" in fiscal 2008, according to EPA data. And because those problems were concentrated in 100 small systems, almost one-eighth of Colorado's community water supplies violated health standards last year.

In Teller County, a pair of dead squirrels can still be seen lying side by side on a beam in a water tank that served 246 homes near the city of Woodland Park. The concrete tank has been drained, leaving Teller Water and Sanitation District No. 1 with no water storage. Woodland Park provided an emergency connection to its supply, promising water if a home in the district catches fire.

Even before the squirrels got in, the district was confronting signs that its water system was old, substandard, leaking and breaking.

Systems show their age

Colorado let developers create their own quasi-governmental water and sewer districts, then turn the infrastructure over to homeowners after projects are completed. Many of these districts are now reaching the half-century mark with original pipes.

In the Teller district's case, a developer turned a golf course into a residential neighborhood in the 1950s. The board of homeowners who inherited its infrastructure found maps of water main locations sketchy. The whole system was woefully short of shutoff valves; if a water main broke anywhere, the entire water supply could be contaminated.

On one street, the water main was just 2 inches in diameter and so badly corroded that pinholes riddled the pipe. At times, the district's little water system lost half its water somewhere between the well and the faucets.

Service lines broke, compelling some homeowners to spend thousands of dollars to replace the pipe from the water main to the house. And when water mains also ruptured, board members discovered they had not been laid in compacted sand to minimize the risk of pipe breaks.

The contaminated tank, originally built for a golf course irrigation system, "is 50 years old this year. We knew we had problems," said Kent Brady, a district board member.

Four times last year, the district was told to boil water or buy bottled water. The squirrels caused one. Broken water pipes caused the other three.

"I just keep 18 jugs of water here in my dining room, right on the floor," said Ken Whitney, a retired architect who recently moved into the neighborhood. "That's how I take care of the water problem."

Small providers most in need

The Teller district has joined the growing list of small water providers pleading for state help with infrastructure repairs.

In most years, the health department has had little or no grant money for drinking-water projects. Those who wanted help applied for loans. This year will be a little different. Thanks to the economic-stimulus package, the department expects an extra $32 million — and to use half of that to forgive principal on loans to needy applicants.

That falls far short of the nearly $1.3 billion in pending drinking-water projects statewide, plus another $456 million in new projects from cities seeking a piece of the federal infrastructure pie. It won't even come close to covering the state's highest-priority projects for public health.

A hundred miles north of Teller County, in a district just west of Brighton in Adams County, Hi Land Acres homeowners were told to boil their drinking water four times last year.

"The bottom line is the entire infrastructure needs to be replaced," said Nancy Gay, chairwoman of the district board. The projected cost: $1.5 million for 114 homes — $13,000 per house. "That's a pretty hard issue to get passed," she said, even when the costs are spread over 20 years.

Her husband, Michael, who runs a water-leak detection company, said similar problems plague small drinking-water systems across the West.

"No construction standards, no inspection, cheaper-grade materials, now it's coming back to haunt us years later," he said.

In Rye, a small town in the foothills southwest of Pueblo, boil-water orders have been distributed every two weeks since last spring. The issue: filtration.

Rye had installed new filters to meet drinking-water regulations, but they clogged during spring runoff, costing the tiny town hundreds of dollars to replace them daily. Citing the cost, the Rye council decided in May to stop filtering the water.

The state promptly ordered Rye to boil water before drinking it.

"You should try running a restaurant where you can't use the water coming out of the sinks," said Cat Irvine, who served breakfast and lunch at the Rye Rendezvous. "I jury-rig a way to run my espresso machine. I can't wash or rinse any of my vegetables" in the sink.

She closed the restaurant last month.

At home, many Rye residents simply ignored the biweekly series of boil-water orders.

"I drink mine right out of the tap," Irvine said. "I don't know anybody in Rye who didn't just drink the water."

The town is getting state help with a water-treatment project that could end the boil-water orders this year. But "the poor people in the town of Rye, it's going to cost them a lot of money," Mayor Thomas Holgerson said. "Their water bills are just going to skyrocket."

Falco, the drinking-water program manager, urged Rye residents not to ignore the state orders. "It is not safe for the public to drink unfiltered surface water," he said. "Campers know not to drink unfiltered water."

Maintenance falls behind

In Hot Sulphur Springs, a town west of Rocky Mountain National Park, spring runoff last year turned the drinking water cloudy, violating turbidity standards. Turbidity, a general measure of particles in the water, is regulated like a pollutant because past disease outbreaks in drinking water have often been associated with high turbidity levels. The town ended up boiling its water for months.

Lauralee Kourse, a water and sewer district operator called to help Hot Sulphur Springs, found a water system that had not been properly maintained for a long time.

Incorrectly applied chemicals had eaten into the concrete of a drinking-water well. The town had some wooden water mains, and its galvanized iron pipes were so corroded that half the water produced was leaking out. The water smelled and looked dirty, and it was accumulating dirt between the treatment plant and the faucets.

"There was so much dirt and debris in the distribution system — it just got dirtier and dirtier," Kourse said.

Residents were told they could bathe in the water, but not to drink it or even brush their teeth with it, and to boil the water before washing dishes.

"When you turn on the tap and the water smells foul, and you hold up a glass of water and it doesn't look so clean, you just kind of know," said Yvonne Knox, a 52-year resident of the town.

Even so, in 2008 the town's voters rejected a property-tax increase to modernize their drinking-water and wastewater systems. But the town is now under a state order to meet water standards, and so its residents face a 47 percent increase for basic water and sewer service next month.

And Hot Sulphur Springs still needs to replace a chlorination well that has become too small, raising the risk that drinking water will get withdrawn before bacteria are killed.

Before the salmonella epidemic, Alamosa had one of more than 90 drinking-water systems in Colorado exempted from chlorination. All drew water from deep underground sources, and many remain reluctant to take on the expense of chemically sanitizing water that has been safe to drink.

Alamosa's public-works director, Don Koskelin, now sees that risk as too great in any aging water system.

Though Alamosa had safely consumed untreated drinking water for a century, Koskelin now offers this advice: "Any system that's not chlorinating now — start chlorinating. Unless it's all brand new, and you can vouch for every joint and every pipe, don't take a chance."

U.S. Senator
Mark Udall
Colorado
8601 Turnpike Dr, Suite 206
Westminster, CO 80031

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http://markudall.senate.gov

To: Administrator Jackson

Organization:

Fax Number: 202. 501. 1450

Date: 3/27/09

Number of Pages: 8

From:
___Mark Udall
___Carolyn Boller
___John Bristol
___Carter Ellison
___Heather Fox
___Kur Kur
___Scott Prestidge
___Alan Salazar
___Tara Trujillo
___Jack Waldorf
✓ Doug Young

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

APR 15 2009

Ref: 8EPR-SR

The Honorable Mark Udall
United States Senate
Washington, DC 20510-0606

Dear Senator Udall:

Thank you for your letters of March 12 and March 27, 2009, to EPA Administrator Lisa Jackson urging EPA to use American Recovery and Reinvestment Act (ARRA) funding to construct the planned water treatment plant (WTP) at the Summitville Mine Superfund site in southern Colorado. I am pleased to report that Administrator Jackson has announced that EPA intends to do just that.

We expect to receive ARRA funding for this project in the next few weeks. Since the State of Colorado is the lead agency for this work, we will provide the funds through a Cooperative Agreement to the Colorado Department of Public Health and Environment (CDPHE). CDPHE's contractors are already working on the design of the WTP, and construction should begin this summer. The ARRA funds will allow us to complete construction work at the Summitville Mine site a year ahead of schedule.

We appreciate your interest in this important project. If you or your staff have additional questions regarding the Summitville Mine Superfund site, please contact me or Sandy Fells, our Regional Congressional Liaison, at 303-312-6604.

Sincerely yours,

Carol Rushin
Acting Regional Administrator

AL-09-000-3750
AL-09-000-4195

Congress of the United States
Washington, DC 20515

March 12, 2009

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

At the request of the Colorado Department of Public Health and Environment (CDPHE), we are writing in support of expedient completion of remediation activities at the Summitville Mine Superfund site in southern Colorado. If applicable, we would like to urge the Environmental Protection Agency (EPA) to strongly consider allocating $16 million of funding provided by the American Recovery and Reinvestment Act (ARRA) toward the construction of a new Water Treatment Plant at the headwaters of the Alamosa River watershed.

As you may know, in 1992 a retention pond for a cyanide heap leach gold mine called Summitville in the San Juan Mountains failed, sending cyanide and other heavy metals surging down 17 miles of the Alamosa River, an important body of water for some of the oldest water rights in Colorado, tracing before statehood. The pollutants essentially killed the aquatic life in this river and negatively affected the communities along its course.

The CDPHE and the EPA have worked closely to address this serious water quality concern. As part of the cleanup, a retrofitted mine processing facility was established to help treat water emanating from the Summitville site. However, this facility has proved inadequate as it does not have sufficient capacity, and, as a result, millions of gallons of untreated, contaminated water are discharged into the river. For this reason, there is a critical need to construct a new water treatment plant to provide a permanent solution to address these ongoing water quality issues.

Additionally, these funds will help promote jobs and the economy of the San Luis Valley of southern Colorado, a region of Colorado that relies upon this water to produce food and fiber. It will also help the EPA minimize its costs for water treatment at the site. We hope the EPA will seriously consider this request consistent with all applicable laws and regulations.

Sincerely,

Mark Udall
U.S. Senator

Michael F. Bennet
U.S. Senator

John Salazar
U.S. Representative

MARK UDALL
COLORADO

SUITE SH-317
SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5941

United States Senate

WASHINGTON, DC 20510

April 14, 2009

Ms. Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

Enclosed are copies of correspondence from constituents who have been seeking the U.S. Environmental Protection Agency's approval of their technology for use in water treatment facilities. I understand that although they have followed the required procedures in securing this approval, their product was included with other products also seeking approval. As a result of issues unrelated to their product's approval, the approval of these constituents' product has been delayed because it was coupled with these other products and the processes involved with securing this approval in the Federal Register.

I would request that the EPA look into this situation and consider expediting the approval review process for these constituents given these delays—delays that appear to be no fault of their own. I appreciate EPA's willingness to seriously consider this request consistent with all applicable laws and regulations.

Sincerely,

Mark Udall
U.S. Senator

Enclosure

cc: Joyce K. Frank, Acting Associate Administrator for Congressional and Intergovernmental Relations

(b) (6)

April 6, 2009

Gaspar Perricone
Regional Representative for Mark Udall, U.S. Senator, Colorado
400 Rood Avenue, Suite 215
Grand Junction, Colorado 81501

Hello Gaspar,

(b) and I deeply appreciate your interest and assistance in helping us get our EPA Methods through to publication. The system appears to be quite wretched. We have been in correspondence with a specialist who worked at the EPA research center for many years. He is now retired.

He related that one submitted Method stayed in limbo for two years until V-P Gore requested it go through. It then went through like a shot. He also related, without any details, that several companies sued the EPA for similar delays. It is rumored GLI spent one million dollars getting their second Method through the process, not counting development time and costs for the instrumentation itself.

An expedited process was put into place during 2007 and 2008. We were told by one company that it took them 14 years to get approval for instrumentation in the wastewater industry, needing 12 trials. The new ruling for us required only three. Our submission was placed one month after the new ruling was published. The new "fast track" ruling appears to be in name only, and lacks precedence. It suggests that the committees between publishing and submission remain stuck in the old process. Only now are we realizing that Dr. Wendelken simply does not have the resources to support the new expedited rulings.

It does seem strange that as valuable as this upgrade in technology from incandescent to LED and laser appears to be, other companies have not gone through the process! The answer is because it takes ten years of education, trust in the outcome, and more money than a company's accounting department is willing to invest for a single R&D project. It takes knowledge; we are hearing more and more that companies of any size have a difficult time finding and hiring engineers with (b) (6) qualities and abilities. Sixth graders know more about computers than we do. But we know how to put systems together that require a broad knowledge of electronics, physics, optics, biology, virology, hydrology, mechanical, manufacturing, marketing, and the

focused industry with all its specifications, rulings, and needs for both small and large water treatment plants. No company wants to pay this price, only to wait years for EPA approval.

It is an investment of laborious effort, day in and day out. (b) (6) simply sat on the EPA doorsteps, asking one question after another, until he became an expert in the subject. It is complicated and this is our fourth generation of turbidity instrumentation – one layer at a time. The EPA has supported our activities and cheered us onward every step of the way. Never had they let us down until now. Nor did we have any clue as to what Dr. Wendelken was up against. Last month we felt like kids waiting for graduation day.

People do what they do; for us, it is a dedication to ones abilities and education (if you don't do it, it may be no one does it) and a sense of leaving the world in a better place. (b) (6) and I have a responsibility to our work, our investors, our potential buyers and to our community. We have a deep responsibility to the EPA.

I tried to find Vice-President Biden's address, but found it all confusing. Will you be so kind as to pass this on to him. I am attaching a copy of (b) (6) resume for reference. He has served his country well.

Cordially,

(b) (6)

(b) (6)

U.S. Senator
Mark Udall
Colorado
8601 Turnpike Dr, Suite 206
Westminster, CO 80031

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To: Joyce Frank for Admin Jackson

Organization:

Fax Number:

Date: 4/15/09

Number of Pages: 4

From:
___Mark Udall
___Carolyn Boller
___John Bristol
___Carter Ellison
___Heather Fox
___Kur Kur
___Scott Prestidge
___Alan Salazar
___Tara Trujillo
___Jack Waldorf
__X__Doug Young

Corrected version

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 2 1 2009

OFFICE OF
WATER

The Honorable Mark Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

Thank you for your letter of April 14, 2009, to Lisa P. Jackson, Administrator of the U.S. Environmental Protection Agency (EPA), in which you requested that EPA look into the status of its review of a drinking water test method developed by your constituents. Because the Office of Water is responsible for these reviews, the Administrator asked me to respond to your inquiry.

In evaluating any new test method proposed for use in determining compliance with the Safe Drinking Water Act (SDWA), EPA must take a number of actions to ensure protection of public health and the environment. Historically, these evaluations required development and publication of a rule and, as described in your constituents' letter, could sometimes take years. In June 2008, the Office of Ground Water and Drinking Water (OGWDW) completed development of a new, expedited process for approving alternative drinking water test methods that does not require rulemaking.

Your constituents, (b) (6) , applied for approval of an alternative technology for measuring turbidity in drinking water. In August 2008, (b) (6) submitted results from studies conducted to support their application, and in December 2008, following initial EPA comment, they submitted revised data. Following final review by the Office of Water and technical peer review by EPA's Office of Research and Development and others, (b) (6) ' turbidity method has been approved. EPA announced the approval in a Federal Register Notice published on August 3, 2009, which can be accessed at http://www.epa.gov/fedrgstr/EPA-WATER/2009/August/Day-03/w18361.htm.

The availability of alternative testing methods allows public water systems greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection. We appreciate the (b) (6) work and the opportunity to update you on the status of the approval. If you have further questions, please contact me or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Peter S. Silva
Assistant Administrator